La'o Hamutuk is publishing this article on our website to broaden information and perspectives regarding corporate social responsibility and the Greater Sunrise oil and gas project. Although we do not agree with everything it says, we believe that it is an important contribution to the discussion. For information on Sunrise LNG, see http://www.laohamutuk.org/Oil/Sunrise/10Sunrise.htm.

Cowboys, Ogres and Donors

A Decade of CSR in Practice – NZ, Australia, Timor-Leste and Indonesia

By Mandy Whyte[1], May 2011

Introduction

In 1999, while working with New Zealand oil and gas exploration and production (E&P) company Fletcher Challenge Energy, the author researched the practices of the petrochemical industry in interacting with community stakeholders[2]. Corporate Social Responsibility (CSR) was not, at that time, a widely embraced term. Ten years later the author returned to the industry working with Australian E&P company Woodside Energy Ltd to head up its office and social investment program in Timor-Leste. The author was eager to see how the maturing field of CSR had been translated into action in the oilfield; much had changed on the surface, but underneath it was pretty much business as usual.

Public relations vs community development

In 1998 New Zealand oil and gas company Fletcher Challenge Energy (FCE) walked into a community hornet's nest. In compliance with legislative requirements under the Resource Management Act, it had advised both the legal and traditional landowners, residents and the general public that it intended to drill an onshore well on coastal land in North Taranaki. Unfortunately for the company these community stakeholders included lifestyle rural dwellers, a strong environmental lobby and two sub-tribes contesting traditional ownership rights to the land – none of whom wanted the company as its neighbour. The parties took the dispute to the Environment Court and eventually FCE agreed to out-of-court settlements to compensate litigants for costs. The company also agreed to drill from a jack-up rig offshore from the intended onshore drill site – at considerable additional expense.

This experience highlighted issues that social scientists have long brought to the attention of resource companies. Firstly, it is wise to consult with communities in advance of planning – not simply to advise them of intentions. Secondly, it is usually necessary to educate people – not just ply them with fact sheets about the project. An educated public is more trusting, less fearful, and more likely to see the benefits from the company's operations and engage positively with it. Thirdly, social assessments should be undertaken as a matter of course in the planning of significant infrastructure developments. Social assessment is the process by which the make-up of a community is revealed: its breadth and depth, its age and weight, its politics and economics,

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The author acknowledges Dominic Elson and Paul Arbon who reviewed early drafts and made constructive suggestions.

2 Whyte A: *Impact Management and the Social Performance of the Petrochemical Industry in Taranaki*, 2000.

the extent of its cohesiveness, its community's needs and concerns. By getting to know a community and understanding its drivers then a strategy for engagement, communications, and impact mitigation and social investment can – with the community's participation – be developed. This is the basis for long-term positive relationships and durable business.

The FCE experience also taught that indigenous groups bring a unique set of issues to the table – issues that were, and still are, frequently derived from differences in values and culture and in some cases, longstanding feudal disputes and competition for resources. The company representative dealing with stakeholder relations needs empathy for, and the capability to communicate with, indigenous stakeholders. Representatives were often however, chosen on the basis of personability or technical know-how not on their skills or knowledge of community engagement. Social scientists or development practitioners understand the complexities of communities in change and under pressure and the dynamics of power and the way these dynamics shape relationships between big companies and their small neighbours: as well as understanding the latent power rifts within the communities themselves. These development practitioners also know the difference between sustainable social investment and 'cowboyism.' More on that later.

Companies in the 1990s learned – or could have – that failure to plan effectively was indeed very costly. In studies on the impacts of mining and logging in PNG and the Solomon Islands[3], it was believed that the socio-political destabilisation and protests caused by mining and logging could have been circumvented by the companies' monitoring (and minimising) community effects through working closely with local women. The companies instead opted to hire private security forces, and avail themselves of government paramilitary services.

Organisations like Greenpeace, according to Reaves (1999) discovered, '... their strongest weapons lay in hitting companies where it hurt most – in the corporate ledger. Multinationals like Exxon, Nike and Shell have since learned the hard way that consumer boycotts and/or protests can seriously damage business.'

Freeport Indonesia which manages one of the largest gold and copper mines in the world contributing 50% of provincial gross domestic product in Papua and more than $1 billion in taxes to Indonesia was subjected to intense scrutiny in the 1990s when environmental groups, regulators and shareholders stepped up monitoring and criticism of the companies' environmental and human rights performance[4]. It has since intensified its community relations efforts.

Communities pose risks for companies; they can also provide value. Smart companies have worked out that a company CSR policy framework, and a site specific CSR strategy and social investment program are good investments.

The community relations practices of FCE and other E&P companies of that time emanated from a public relations (PR) approach to working with operations-affected communities, the primary and underlying purpose of which is to further the economic interests of business.[5] A community development (CD) approach was mooted as an alternative and more effective model (See Table 1 for a comparison of these approaches). Practices arising from a PR approach can be socially inappropriate and commercially ineffective in communities which are negatively affected by companies with which they are obliged to share the same social and physical environment.

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3 Scheyvens, Regina & Leonard Lagisa '*Women, Disempowerment and Resistance: An Analysis of Logging and Mining Activities in the Pacific*' in Singapore Journal of Tropical Geography, Volume 19, Number 1, June 1998

4 Ballard, C and Banks, G: *Between a Rock and a Hard Place: Corporate Strategy at the Freeport Mine in Papua*, 2001-2006 in Working with Nature Against Poverty, Institute of South East Asian Studies, 2009.

5 Whyte: Ibid

The CD approach comes from a philosophical framework that espouses human rights and the integration of social, environmental and economic development as an enduring function of commercial enterprise. It is posited that effective management of the dynamics of opposing interests will not be achieved through companies deploying 'nice people' to negotiate with disaffected, disparate and disempowered groups, but through the use of qualified social practitioners and the community development tools of social assessment, participation and empowerment to create mutually beneficial outcomes.

Table 1: Comparison between the PR and CD approaches

Factors	Public Relations	Community Development
Company view of the community	A 'thorn in the side'; stakeholder in the company's operations; potential opponents or advocates; beneficiaries	Vulnerable citizens whose rights must be respected; business partners; less powerful relative to the company
The company views itself in relation to the community as:	A member of the community; a benefactor	A powerful, resourceful, professional and responsible company
The community is identified by:	Using existing and secondary data	Undertaking primary research
Social impacts are determined by:	Previous experience with other communities; complaints and opposition to resource consents	Undertaking social assessment
Impacts are managed by:	Mitigation on a case by case basis as they arise	Deferring to an impact management plan devised in consultation with and agreed to by the community
Communication tools are viewed as:	A means to appease and inform, create loyalty and avoid dissension	A means to educate, enhance participation and gain local knowledge
Consultation is:	A legal requirement	A communication tool; a means to ensure community needs and sentiments are reflected in project plans
Consultation requires:	Negotiation, mediation and 'people' skills	Facilitation, presentation, advocacy and bicultural communication and teaching skills
Underlying theoretical approaches	Marketing, communications	Human rights, participation and empowerment, community development
Underlying philosophy	Good neighbour relations, minimal expenditure; neoliberalism; implicit ideology	Community development - social responsibility, social justice, social integration; transparency of intent - policy driven, explicit ideology
Methodology	Ad hoc, reactive, case-by-case, information as required	Planned, policy driven, proactive; social assessment, participatory planning, commercial relationships with the community; investment in sustainable social programmes
Benefits to the community	Donations, industry-informed public, compensation	Sustainable social programmes; industry-informed and educated public, long-term relationships through consistency of approach
Risks to the community	Divisions and inequities created through disparities in company sponsorship and perceived favouritism; raised and unmet expectations due to lack of policy; non-sustainable investments	The company withdraws prematurely from the region affecting sustainability of social programs. Lack of management buy-in or company restructuring and loss of staff with project history disturbs program effectiveness.
Benefits to the company	Minimal investment required if community is supportive of the company; advocates can be used to suppress opponents	Excellent relationship with communities; sound social investments; up front costs; no or limited opposition
Risks to the company	Excessive compensation/mitigation demands; obstruction; bad publicity; poor returns from investments in community projects; backlash from inappropriate and ill conceived 'giving'; delays to work programmes.	Determination of a community to reject E & P if legally able to despite benefits and good relationships.

CSR Ten Years Later

How had the corporate world absorbed the emerging field of CSR in 2008 and in light of the Mining, Minerals and Sustainable Development report[6] and the Extractive Industry Review (EIR)[7]? The author returned to CSR, working this time with the E&P industry in Timor-Leste. It was an opportunity to see how and if companies working in a developing country had become part of the solution to the nation's development, rather than one of its multitudinous problems identified in earlier research. The signs were not all good.

For some companies a community development approach seemed to have become requisite to operations – they were working strategically with host governments and with development partners and, in many cases, taking a place at donor roundtable meetings. Others seemed fearful of empowering and engaging frankly with stakeholders, immobilized behind tightly scripted public position papers. These companies seemed resistant to behaving within the guidelines of sustainable development practice behaving instead like cowboys – doing their own unilateral thing amidst a development agenda and industry that was desperately trying to co-ordinate foreign inputs to catalyse real socio-economic change.

More insidious though, were companies with 'ogres' at the helm. This describes CEOs, boards and sycophantic senior staff who seemed to have no interest in investing in the development of developing country host nations, not even making tokenistic efforts, and were prepared to exploit these poorer countries' disadvantage as well as their resources.

The Case of Timor-Leste

Timor-Leste is a small, newly independent, impoverished, yet resource rich country. In 2000 it began negotiations with Australia over rights to the oil and gas resources of the Timor Sea. In February 2007 the Governments of Australia and Timor-Leste completed ratification of a treaty on Certain Maritime Arrangements in the Timor Sea (CMATS). Negotiations on maritime boundaries were contentious and ended with a compromise on a joint production development area (JPDA) and a 50 year postponement of the decision on maritime boundaries.[8]

Woodside Energy Ltd (WEL), as the operator, and its joint venture partners (JVP), ConocoPhillips (CoP), Shell and Osaka Gas were then able, with a newly ratified International Unitisation Agreement, to reconsider development of the Greater Sunrise gas fields in the Timor Sea, a process that had previously stalled. WEL set about assessing a number of concepts for the development of the fields principally piping the gas to CoP's LNG processing plant in Darwin 450km from the field, piping the gas 150km across the 3000 metre deep Timor Trench to Timor-Leste, or building a floating production facility. The Timor-Leste Government had its heart set on a pipeline to home soil, though it was aware WEL was obliged, by agreement, to find the most commercial solution.

In 2008, when WEL announced it was dropping the Timor LNG option as it was the most technically challenging, risky and expensive, the Timorese resisted, refusing to accept the decision, commissioning its own bathymetry study of the trench, and teaming with other oil companies to develop their own gas processing option – one they believed would create jobs and secure their economic future.

Interestingly WEL and its JVP had been down this same road in 2004, before the IUA and CMATs, and had at that time proposed a pipeline to Darwin concluding that laying a pipeline across the trench was technically impossible. Timor rejected this option then too.

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6 MSSD, 2002

7 World Bank, 2003

8 This topic is treated in depth by Paul Cleary in *Shakedown: Australia's Grab For Timor Oil*, 2007; See also Nicolau G and Scheiner C: *Oil in Timor-Leste*, La'o Hamutuk, 2005

Timor-Leste did not trust WEL's earlier studies nor does it trust WEL's latest studies and, although the process is far from over, it is likely it will block attempts to develop the field offshore or in Darwin. Tempo Semanal in 2009 reported the government was:

> *'… firm in its position to find ways of bringing the pipeline from the Greater Sunrise oil field. ... This initiative, according to the government, will give the necessary boost to the economy and assist with addressing such issues as poverty'.*[9]

Timor-Leste's Secretary of State for Natural Resources, Alfredo Pires was reported as saying that if Woodside was not co-operative then Timor-Leste may prepare for the worst decision: to *not* develop the Greater Sunrise field:

> *'Woodside continued their statement that the Timor-Leste option is no longer an option. Those international statements are not very appropriate. We think they are misleading. We think the senior management in Woodside are misleading the shareholders of Woodside.'*

Two years more and Timor-Leste was seriously considering, according to The Australian, "terminating the treaty at the first opportunity, February 2013, if the dispute remained unresolved'[10]. At the same time WEL CEO Don Voelte was indicating that FLNG was unanimously endorsed by the partners and Woodside was "driving forward" to a final investment decision[11].

Woodside Energy Ltd – an Us and Them Approach

There are many tools in the CSR toolbox that could have prevented this deadlock, but sadly none of them was used by WEL. More surprisingly, it also did not utilise its arsenal of PR tools.

Rather than position itself alongside the Government of Timor-Leste as a key partner in the development of Sunrise it placed itself at the other end of table in effectively an adversarial position, a play that, where there is an imbalance of social and political power, will inevitably lead to attempts by the less powerful partner – the Timorese – to undermine and sabotage its processes. This dynamic is not new. It has been played out in oilfields throughout the world.[12]

The company used a PR approach – though barely – in informing its Timorese stakeholders, namely the regulator and the Government, of its processes and decisions, but it failed to use a developmental (CD) approach to build partnerships through consultation, education and participation and, predictably, it invited resistance and opposition.

WEL steadfastly refused to regard the Timor-Leste Government as a partner in the development of the Sunrise fields, seemingly characterising them not only as a "thorn in the side" typical of a PR approach, but also as devious and untrustworthy. That WEL was "driving forward" to a final investment decision without the Timor-Leste Government demonstrates an arrogant lack of regard for the relationship.

It relied heavily on competitive negotiation as a communication tool, effectively placing itself in opposition to the Timorese Government. This did nothing to allay the fears of the community, either to dispel myths or create a sense of confidence and trust in the company. WEL also missed an opportunity to generate a sense of excitement about the immense benefits the development of the Sunrise gas fields would bring to Timor – regardless of where the gas was

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9 Tempo Semanal, 143, *Timor-Leste Proven it's Suspicious of Australian Woodside Company,* 15 June 2009.

10 The Australian, East Timor Ups Ante in LNG dispute, as floating processing plan is deadlocked, 10 March 2011

11 Ibid.

12 A recent case in point: Amnesty International said that pollution and other environmental impacts from the oil industry in the Niger Delta were creating a 'human rights tragedy' in which local people suffer poor health and loss of livelihood. At the same time Nigerian militants are reported as claiming they sabotaged the pipeline by hurling explosives at it, *Nigerian Militants Claim Pipeline Sabotage*, CNN.com, July 2, 2009

liquefied. Alfred Pires was prompted to say of WEL, "Timor-Leste is not a mere stakeholder in the Sunrise issue: we are owners."

The company seemed paralysed by fear of engagement, illustrated by obsessive iterations of its public position paper, a FAQ sheet designed to promote a common company voice, to control outward information flows, and to provide 'sanitised' responses to difficult questions. It counselled staff to not talk to the government outside of this paper, to 'stay under the radar'.

WEL and its JVP opted for a philanthropic approach to social investment, a tactic that can work in contexts where there is clear resource management legislation and few impacts – but one that is out of sync with the approach of other donors (many of which are natural resource companies) in developing countries.

Philanthropy in a developing country is often tokenistic and companies are frequently seen by many in the aid/development industry as indulging in cowboyism – referring in this context to random, non-strategic acts of funding, haphazard non-professional engagement, and paternalism. These acts of giving seldom serve the interests of the company in terms of sustainable business nor, in many cases, do these acts do much to support the beneficiaries of their projects. Misplaced funds by donors can and have, for example, added to local maintenance costs; paid for inappropriate and un-maintainable technologies, vehicles and goods; contributed to corruption; fed community inequity and fuelled hostilities; undercut local businesses and threatened livelihoods; created dependencies and undermined people's ability to care for themselves; and, at the same time, placed the welfare of workers at risk.[13] When criticised for cowboyism these companies are surprised that their 'social kindnesses' and over-sized cheques fail to win hearts and minds or even a sincere, warm reception.

WEL believed CSR was not its core business, which is true; however CSR is core to its business. In the same way as the Accounting, Human Resources and Health, Safety and Environment departments are not doing core business, they function, like CSR, to enable the core business to take place and to enable its long-term success.

WEL did not see itself as a donor. Internationals actors supporting developing nations (bilateral country, multilateral and private sector donors) and increasingly NGOs seek to harmonise their activities and align their interventions with the priorities of the government in accord with the Paris Declaration of Aid Effectiveness and, for international NGOs, take, for example, cluster approaches to co-ordinating efforts.

A donor (or CD approach) is overtly strategic in implementing development assistance/social investment programs that seek to make sustainable social impacts and contribute to meeting the MDGs or the countries' national development plans or poverty reduction strategies. They work in niche areas, within their areas of specialisation. Donors should be strategic about meeting their own agency's interests. Bilateral donors (such as USAID or AusAid) make no secret that, in addition to meeting international agreements to support their poorer neighbours, they are also meeting foreign policy interests of their own. Equally, private sector companies can invest overtly in vocational education or infrastructure development to meet their own workforce or transportation needs[14]. Investing in mutually beneficial outcomes is consistent with pursuing the so-called triple bottom line of 'people, planet, profit' which is of interest to increasing numbers of investors and creditors.

However, such mutually beneficial outcomes can only be discovered through patient dialogue with stakeholders. WEL failed in this respect, and thus did not align its social investment efforts with government priorities. By acting as a 'cowboy' WEL lost an opportunity to demonstrate its

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[13] Whyte: Ibid

[14] Of course private infrastructure is usually no substitute for correctly-planned and executed public assets, and perhaps private firms could do better to assist in the design and delivery of infrastructure in line with a broader spatial plan.

commitment and support to Timor-Leste and therefore lost the entitlement to receive commitment or support from Timorese people. The approach it adopted could lead to the assumption that it was very probably disinterested in supporting Timor-Leste's development. And yet if there was ever a company in a position – both financially and geographically – to help its beleaguered neighbour, Woodside is it.

Timor-Leste sits in 158th place out of 179 countries on the UN's Human Development Index whereas Australia comes fourth. It has a GDP *per capita* of only US$668 compared with Australia's US$33,035. Timorese can expect to live to 60 years of age – 21 years younger than Australians – dying of treatable diseases such as malnutrition, malaria and dengue fever – conditions barely known on the other side of the Timor Sea.

WEL, like Freeport in the 1990s (see below), acted ogrishly in taking an adversarial approach in preference to a development approach when it could have acted supportively and should have acted responsibly. CEO Don Voelte stated on occasion that the pipeline would go to Timor-Leste "over my dead body" and cited sovereign risk and corruption as the reasons WEL would not go to Timor-Leste, yet both of these factors are present to some degree in most developing countries and managed by many mining/E&P operators. JV partners ConocoPhillips and Shell were invited by WEL to bid to supply the project with the Darwin option (CoP) or a floating option (Shell). Timor-Leste was not invited to put up a bid for a Timor option.

WEL's blundering behaviour in its dealings with Timor-Leste reflects a lack of understanding of, and professionalism around, CSR. Having also failed recently to seal deals in Mauritania and Libya, it may be time to review its approach.

CSR in Indonesia

The situation in Indonesia, Timor-Leste's closest neighbour, bears comparison as a developing country that has sought to compel its oil and gas companies to acknowledge their wider social obligations. Indonesia requires natural resource companies to comply with CSR legislation[15] formally making CSR a core business activity. While the specifics of the act and the regulating of it have yet to be fully worked out, it is a significant step in acknowledging that companies need to mitigate the effects of their operations and invest in operations-affected communities in structured ways. This is also sadly an acknowledgement of the weak institutional context in Indonesia, where fiscal measures often fail to gain traction. Centrally-controlled royalties are hard to avoid, but local fees and taxes are often evaded, denying districts and provinces the revenue that could be spent on improved infrastructure and investment in human capital. CSR regulations are thus a way to ensure a proportion of natural resource rents are being used to benefit local people.

However, many international and local companies have CSR programs and do take a genuine interest in the development of their staff and communities, making considerable and valuable contributions to Indonesia's development. Many have incorporated CD methodologies, in many cases by learning that their PR approaches were not providing the results they needed. Giant mining companies Newmont, Freeport and Inco are companies that have had operations disrupted by disaffected communities and have thus been compelled to find new forms of engagement with local people, to some extent acknowledging traditional rights over land and resources that may not be formally accepted by Indonesian law. Weak or absent local government in remote areas may lead to companies acting as proxy local governments, providing core social services and infrastructure. To naively consider that CSR is not core to their business is tantamount to business suicide. Getting it wrong for these companies can have devastating effects as many are based in conflict zones.

[15] Article 74 of Law No. 40 2007 on Limited Liability Companies

Take it from Freeport Indonesia. A damaging environmental study in 1995 led to OPIC[16], which had underwritten the mine's risk insurance policy, cancelling the policy; shareholders used meetings to raise questions about the company's activities and the Norwegian government oil fund – one of the largest pension funds in the world – blacklisted Freeport in 2006[17]. Attacks on the mine have occurred since the 1970s, the most recent being a shooting in 2009 that killed three Freeport employees.

Freeport, like Woodside, has at times adopted an adversarial approach. Its stakeholder engagement strategy in the 1990s was to give, 'aggressive and often intimidating responses to challenges, coupled with a massive public relations campaign … and a tactic of hiring or in other ways suborning its critics."[18] Outbursts of extreme violence related to the Free Papua Movement and public rallies and riots against the company were ruthlessly suppressed by the military. It began a share buy-back program to relieve [Freeport] of shareholder and other pressure." [19]

The company entered a period of self-reflection. Examination by the industry in relation to environmental and human rights issues and its own concerns about public image and its 'social licence to operate' led to a substantial community relations effort. The jury though seems to be out on whether Freeport's CSR program is a serious CD effort or a modification of its earlier adversarial and PR approaches.

Ironically, given the flak directed at mining companies to 'get with the program' on CSR and despite the efforts made by these companies in recognising their roles and responsibilities as donors, many of these companies have experienced marginalisation by the development community. An American mining company that invests heavily in schooling for children of its workforce and other local children wanted to know why it had been excluded from a donor working group on education in its area. Why indeed? In a seeming show of arrogance a senior UN official opposed any engagement with Newmont citing allegations (2005-2007) relating to the Buyat Bay pollution case; a case that was proceeding rightfully through the legal system and was finally dismissed.[20]

Many development agencies see companies only as a funding source and fail to see that CSR is entirely consistent with development and companies can be key players in the poverty fighting stakes. Given the considerable resources of these companies and the fact they are often longer on the ground than most development projects, their contribution to the donor roundtables should not be overlooked.

Conclusion – the responsibilities of large profitable companies

Large natural resource companies deriving substantial profits in developing countries need at the most rudimentary level to mitigate impacts – both at the operations-community level and the socio-political level. The impact of wealth in the midst of lower socio-economic communities can be as profound as the impacts of poverty. This work is core to the business of these industries.

While the field of CSR is driving the development of new thinking, approaches and creative commercial solutions to poverty alleviation by companies, there is a lag in terms of ideology. The 'why should we' of CSR seems not to have caught up with the 'how to' of CSR. Some

[16] Overseas Private Investment Corporation

[17] Baue, Bill: *Norwegian Government Pension Fund Dumps Wal-Mart and Freeport on Ethical Exclusions*, Social Funds.com, 2006

[18] Bryce (2005) cited in Ballard and Banks (ibid)

[19] Emel (2002), cited in Bollard and Banks (ibid)

[20] Anecdotal account from a UN consultant in Indonesia.

countries are still being subject to arrogant ogreism or myopic cowboyism forcing developing countries to force CSR compliance, like Indonesia through its CSR legislation, and like Timor-Leste through its stubborn determination and show of no confidence in WEL.

CSR brings benefits to all partners in a deal. Investors like WEL and its JVP need to move beyond their blundering arrogance and become professional and strategic about how they operate in developing countries. Governments need to be savvy about how capital markets and foreign direct investment works, and to prepare and educate their communities. Countries like Timor-Leste need to tailor their approach to investors so as to deter the ogres and invite the visionaries.

Communities affected by extractive operations can learn to articulate their development needs in a way that invites sustainable social investments rather than be bewitched by the prospect of a windfall of cash compensation and philanthropy. The cowboy companies can likewise learn that the short-term tactical gains of these money drops come at the much higher cost of long-term strategic value. Windfalls and misdirected philanthropy should not be confused with investing in real long-term human development.
