

University of Windsor

Scholarship at UWindor

Electronic Theses and Dissertations

Theses, Dissertations, and Major Papers

2005

Campaigns of corporate social responsibility: The case of Canadian oil producer EnCana (Ecuador).

David. Demant
University of Windsor

Follow this and additional works at: <https://scholar.uwindsor.ca/etd>

Recommended Citation

Demant, David., "Campaigns of corporate social responsibility: The case of Canadian oil producer EnCana (Ecuador)." (2005). *Electronic Theses and Dissertations*. 1348.
<https://scholar.uwindsor.ca/etd/1348>

This online database contains the full-text of PhD dissertations and Masters' theses of University of Windsor students from 1954 forward. These documents are made available for personal study and research purposes only, in accordance with the Canadian Copyright Act and the Creative Commons license—CC BY-NC-ND (Attribution, Non-Commercial, No Derivative Works). Under this license, works must always be attributed to the copyright holder (original author), cannot be used for any commercial purposes, and may not be altered. Any other use would require the permission of the copyright holder. Students may inquire about withdrawing their dissertation and/or thesis from this database. For additional inquiries, please contact the repository administrator via email (scholarship@uwindsor.ca) or by telephone at 519-253-3000ext. 3208.

CAMPAIGNS OF CORPORATE SOCIAL RESPONSIBILITY: THE CASE OF
CANADIAN OIL PRODUCER ENCANA

by

David Demant

A Thesis

Submitted to the Faculty of Graduate Studies and Research

Through Sociology

in Partial Fulfillment of the Requirements for

the Degree of Master of Arts at the

University of Windsor

Windsor, Ontario, Canada

©2005 David Demant



Library and
Archives Canada

Bibliothèque et
Archives Canada

Published Heritage
Branch

Direction du
Patrimoine de l'édition

395 Wellington Street
Ottawa ON K1A 0N4
Canada

395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file *Votre référence*

ISBN: 0-494-09770-1

Our file *Notre référence*

ISBN: 0-494-09770-1

NOTICE:

The author has granted a non-exclusive license allowing Library and Archives Canada to reproduce, publish, archive, preserve, conserve, communicate to the public by telecommunication or on the Internet, loan, distribute and sell theses worldwide, for commercial or non-commercial purposes, in microform, paper, electronic and/or any other formats.

The author retains copyright ownership and moral rights in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

AVIS:

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque et Archives Canada de reproduire, publier, archiver, sauvegarder, conserver, transmettre au public par télécommunication ou par l'Internet, prêter, distribuer et vendre des thèses partout dans le monde, à des fins commerciales ou autres, sur support microforme, papier, électronique et/ou autres formats.

L'auteur conserve la propriété du droit d'auteur et des droits moraux qui protègent cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

In compliance with the Canadian Privacy Act some supporting forms may have been removed from this thesis.

Conformément à la loi canadienne sur la protection de la vie privée, quelques formulaires secondaires ont été enlevés de cette thèse.

While these forms may be included in the document page count, their removal does not represent any loss of content from the thesis.

Bien que ces formulaires aient inclus dans la pagination, il n'y aura aucun contenu manquant.


Canada

Abstract

In the increasingly legitimized neo-liberal climate, state governments have adopted policies that divest themselves of formalized regulation. This move towards the deregulation of corporate policy has created a unique climate in which the responsibility of minimizing risk and behaving in a responsible manner is left to market forces to regulate. Corporations claim to have subsequently adopted self-mandated policies of corporate social responsibility (CSR) as a means of expressing their commitment to moral concerns. The Case of Canadian oil producer EnCana illustrates that while the admirable moral policy may exist, actual practice does not. EnCana's negligent environmental and social behaviour in Ecuador necessitate an examination of how an unregulated doctrine of corporate social responsibility can be used to harm the public good. Its use of a corporate constitution not only as a public relations ploy to enhance its reputation, but also as a smoke-screen to deter attention from the reality of its practices, raises serious questions regarding the validity of a CSR doctrine. This article connects theoretical discussions of neo-liberal policy and the rise of corporate social responsibility to practical problems that plague the implementation of such policies.

Acknowledgements

I would like to thank my thesis advisor, Dr. Tanya Basok. Without her continuous support and advice this article would not have been possible. I would also like to thank my committee members, Dr. Suzan Ilcan and Dr. Steven Palmer. Your contributions were very much appreciated. Finally I would like to thank my family and wife Nicole. Your endless patience and enduring support will never be forgotten.

Table of Contents

Abstract	iii
Acknowledgements	iv
Economic Restructuring and the Responsibilities of Corporations and Citizens	2
The Rise of Corporate Social Responsibility	7
CSR and Its Critics: Past and Present	11
The Case of EnCana	13
Conclusion	24
References Cited	27
Vita Auctoris	31

Campaigns of Corporate Social Producer EnCana Responsibility: The Case of Canadian Oil

Neo-liberal policies have ushered in an era in which formalized state regulations are replaced by a less intrusive form of individual responsabilization where corporations are governed at a distance (Dean, 2003; Rose, 1999). As a result, the industry-led conceptualization of corporate social responsibility (CSR) is often viewed by states, corporations and consumers as a means of rectifying the corporate acts of irresponsibility as well as perceived inefficiencies of state regulations.

This article will clearly illustrate that despite CSR's rising relevance within corporate discourse, it fails to ensure corporate responsibility. While there has been a willingness to adopt measures of corporate social responsibility, a major problem still exists. This problem is the development of CSR as a self-centred, public relations tool that is focused more on image presentation than identifying a corporation's social impact. This problem present hurdles in demanding corporations behave in a responsible manner, regardless of location or whether they are formally recognized and publicly praised.

As a result corporations have been able to use an unregulated set of self-mandated guidelines as a means of deception. With no formalized doctrine or forum to enforce CSR, it can be easily manipulated by the corporation for its own benefit rather than the benefit of the corporation's stakeholders. Corporate social responsibility, therefore, becomes another instrument of power placed in the hands of the corporation

The concept of CSR is not at all new. However, little research has been done on its direct application, and the ideological climate and motivations that fostered its increasing acceptance. Not much research has been conducted to assess whether socially responsible corporate investment results from the introduction of CSR policies or,

alternatively, whether CSR policies are mostly unregulated guidelines subject to manipulation. This article addresses this gap in the literature. First it will examine the political and economic context behind the rise of the discourse of corporate social responsibility. It will display the rise of CSR policies as a means of filling the role left increasingly vacant as the shift towards neo-liberal policies have entrenched themselves within state governments. Following the theoretical works of Dean (2003) and Rose (1999), this article will apply the neo-liberal concept of shifting responsabilization to a specific case to illustrate the shortcomings of CSR policies and how they facilitate the shift in the responsibility of corporate behaviour from the state to the corporation and consumers. Second, it will analyse a specific case study of a Canadian company, Encana, that prides itself on its CSR policies, yet continues to violate human rights and destroy the environment in Ecuador.

The case of Encana, a Canadian oil company operating in Ecuador provides clear evidence that the discourse of CSR fails to guarantee corporately responsible investment when left unregulated. Based on an analysis of academic articles, articles posted on various websites, newspaper and magazine articles and an interview with Toby Heaps of Corporate Knights Magazine, this article examines EnCana's behaviour and use of the CSR policy.

Economic Restructuring and the Responsibilities of Corporations and Citizens

The development of CSR within the past twenty-five years is related to changes in the global political economy (Manokha, 2004: 56). The state has been radically transformed through the processes of neo-liberalism which include downsizing the role of

the state in a shift from a traditional central bureaucratic welfare state towards a form of market-driven governance. It involves a transferring of responsibility from state regulating bodies to corporations and individuals themselves. This is not to say that the state no longer exists, or that it is no longer a dominant figure among global power structures, rather that its role is changing and that its influence is being eclipsed by other forces.

The rise of CSR can be attributed in large part to the changing dynamics of government, in particular how states govern. The process of neo-liberalism has created a dramatic shift in the role of the state. It has caused a shrinking role of the state in regulating corporate activity and off-loaded that responsibility to corporations themselves. Mitchell Dean (2003) identifies a process of creating a responsible, autonomous citizenry through a reconfiguration of the welfare state under neo-liberalism (179). In this sense the role of the government becomes more reflexive such that the state is no longer responsible for the citizen from the cradle to the grave. Dean (2003) argues that neo-liberal ideology offers a distinct type of freedom that is tied to the market, which is a rejection of the previous welfare regimes (179). In this sense the state is not responsible for events of the market. Rather, individuals must adhere to a new prudentialism such that they are now responsible for minimizing their own risks. Individuals are no longer prudent as a means of duty to the state; rather they must become prudent in order to take care of themselves. The same can be said for corporations. No longer is the state completely responsible to regulate the corporation, rather, the corporation must now work to regulate its own risks as well as its impact on its stakeholders. The role of the state therefore, is simply to ensure individual rights and the

empowerment of the individual (Rose, 1999: 139). Rather than the state solving the problems of the citizenry and creating dependency, neo-liberal policies allow governments to create new spaces where markets can be created and function. This shift from passivity to activity creates a sense of responsibility and self-actualization on the part of the individual (Rose, 1999: 145). Dean maintains that the shift towards neo-liberal policies is not the end of the social, rather that the social is “reconfigured within constructed markets operating through agency and governed at a distance by technologies of performance” (Dean, 2003: 193). He introduces the term “responsible autonomy” as a means of defining indirect regulation (Dean, 2003: 196). Consequently traditional bureaucracies of the state are replaced with corporatized units based on competition. This competition, it is argued, creates efficiency unattainable within a centralized bureaucracy. Together with individual responsabilization, this corporatization of state bodies and the downsizing of the state’s role in regulating corporate activity have left corporations in the position to operate with increased autonomy with minimal regulation through indirect channels such as a doctrine of corporate social responsibility. What had been simply a concept of ethics has developed into a doctrine of market-based regulation with competition within an open market as a means of regulating performance.

The traditional welfare state has been characterized as an inefficient, oppressive, controlling central bureaucratic mechanism that has failed to reduce poverty and bring about equality. Such criticism from both the political right and left have aided the implementation of neo-liberal ideologies of deregulation that gained strength during the 1970s, 80s, and 90s (Dean, 2003: 153). The effects of deregulation of corporate activity have been unfolding in the past 25 years. Beginning in the 1970s, deregulation has

affected the American banking, transportation, and telecommunication industries that coincide with the rise of neo-liberal policy in Western democracies (Horwitz, 1986). Raines and Leathers (1995) as well as Daraio and Turchetti (2004) assess similar trends towards deregulation pursued by Asian and European governments.

Historically, industry regulations have been seen as the hallmark of the interventionist state and a democratic victory of the will of the people to persevere in the struggle against corporate interests (Trebing, 2004: 1). Conversely, critics of state regulation see it as a hindrance to economic activity which in turn creates artificial cartels of dependency and “parasitic social welfare systems” which cause inefficiency and corruption (Horwitz, 1986: 140). Horwitz identifies the process of corrupting regulatory bureaucracies such that they have been taken over by the very interests they are trying to regulate. He likens this process to neo-Marxist capture theory which states that a revolving door regulatory system made popular in Japan places industry elites in regulatory agencies and vice versa such that regulatory bodies have become corrupted and sterile (Horwitz, 1986: 140; Richter, 2001: 19). Structural Marxists have argued that regulatory agencies respond only at the request of industry to maintain market order. Coming from a dramatically different perspective, the Chicago School of free-market economics similarly argues that industry regulation more often than not creates exclusive cartels. Unlike the Structural Marxists that call for a purification and democratization of regulatory agencies, free-market economists call for a dismantling of the entire process with control put into the hands of the market (Horwitz, 1986: 141). Finding criticism from both the political left and right, the case for state regulation has become increasingly

difficult to make within a climate of increasing legitimization of neo-liberal policy in state legislation.

Perceived bureaucratic inefficiencies have been blamed on regulatory regimes which are said to have led to stagnation within industry (Trebing, 2004: 2). As various American industries were losing ground to foreign competitors, deregulation was seen as the only means of maintaining American corporate hegemony. The same rationale was employed in Japan to maintain the supremacy of its financial markets under increasing pressure from global competition (Raines and Leathers, 1995: 362). Weeks argues that less regulation and freer trade is imperative in establishing a country's competitive advantage (Weeks, 1999: 49). Therefore, it was a perceived complacency of the corporations that initiated and legitimized this form of deregulation within the political and civil realm (Horwitz, 1986: 147). Likewise, pressure from organizations such as the World Bank encouraged an end to economic trade regulation in several emerging areas such as Latin American markets (Weeks, 1999: 50).

While existing literature has provided a detailed analysis of the factors that motivated states to pursue policies of deregulation, as well as literature that has been critical of deregulation's impact, very little research has illuminated the connection between these policies and the rise of CSR. This paper provides clear evidence that the move towards neo-liberal policies empower corporations to manipulate public trust while professing to do the contrary through policies of CSR.

A broad-based acceptance of deregulation and its motivating force of neo-liberal policy have brought into question many of the securities previously taken for granted under the values of the welfare state. It has opened the door to an increasing shift away

from the state as the traditional benefactor and regulator of the interests of civil society to an emphasis on corporate self-governance.

The Rise of Corporate Social Responsibility

Corporate social responsibility renders itself open to various interpretations. In essence, the concept refers simply to a set of standards or ethics that extends the definition of stakeholder beyond financial shareholders to all individuals, as well as the physical environment, affected by the corporation's actions. This is based on the notion that corporations are not simply responsible to make a profit, but to ensure that its effect on individuals and communities is positive and sustainable. This mentality is in part derived from neo-liberal doctrine of individual responsibility. Since the state is increasingly less involved in regulating corporate activities, CSR is seen as a means of filling the void left in the wake of a dismantled welfare state. Shifting responsibility away from state governments places consumers in the position previously held by state regulating bodies. Market-based regulation, it is argued, empowers consumers to hold corporations accountable for their behaviour such that regulating authority is not derived from the state, but from consumer preference and action. (Ruggie, 2004: 510-514; Cashore, 2002: 504)

Jackson and Nelson (2004) argue that the development of corporate social responsibility has been mandated by two prevailing developments of the developed world: the crisis of inequality and the crisis of trust. The development of information technology has made it infinitely easier to share data in shorter amounts of time and across greater distances. This has ushered in widespread awareness of social inequalities

both domestically and internationally (Jackson and Nelson, 2004: 21). Recent domestic trends of increasing wage gaps, decreasing net worth and real wages for the lower percentiles of the population become even more potent in the light of exponential increases in executive pay and corporate profits. Such trends are responsible for igniting the crisis on inequality. These domestic realities coupled with the growing awareness of corporate activity in foreign locations have resulted in widespread social action such as the boycott of Nestle products in the 1980s and the campaign against Nike in the mid 1990s that can have a damaging impact on economic performance.

The crisis of trust can also be very damaging to a corporation's economic performance. Fortune magazine's editorial director Geoffrey Colvin (2002) states that "a company's trustworthiness, embodied in brand and reputation, is increasingly all customers, employees, and investors have to rely on...Experience shows that this asset is built slowly and painfully but can be lost in the blink of an eye, and in losing it, you may lose everything" (April 29, 2002). Trust and confidence are vital to the economics of a free-market system. Losing that confidence can lead to dramatic collapse. Never was this more apparent than during 2000-2003 when highly publicized corporate implosions of Enron, WorldCom, Tyco, and Arthur Andersen cost employees, customers, and pensions plans billions of dollars. Fear of losing the trust of consumers and/or investors may have pushed corporations to formulate new policies of corporate social responsibility.

In addition, as Henderson (2001) points out, CSR is propelled in large part by public concern with environmental issues such as global warming and de-forestation. Furthermore, he argues that hostility towards rising corporate profit placed corporate

giants in the spotlight. Such criticisms are facilitated by advancements in communication technology that have given NGOs greater influence and reach in organizing anti-corporate campaigns (29, 30).

The increasing inclusion of CSR within corporate policy is a clear indication of the need corporate decision makers see for presenting a positive social image to consumers. The two most obvious areas of corporate presentation are through annual reports and company websites. As an economic organization a corporation produces annual financial reports. This has been unchanging since the conception of public shareholding. The most dramatic recent trend in reporting has been the development of sustainability reporting that accompany annual financial reports. Sustainability reports provide more than simply economic details, but address environmental concerns, philanthropic giving, issues of corporate governance, and a variety of other social issues that are directed at an audience beyond shareholders. The quantity of sustainability reports has increased substantially throughout the 1990s (Joseph, 2002: 97). In 2003 the Global Reporting Initiative claimed that over 2500 corporations provide environmental or sustainability reports (Neef, 2003: 206).

Corporate websites have also become a popular tool in promoting a corporation's views and commitments to CSR. While websites themselves were virtually non-existent in the 1980s, by 1998 a sample of Fortune 500 companies displayed that the vast majority of corporations had website and 82% were using the website as a means of promoting the firm's social responsibility (Esrock and Leichty, 1998: 311). The use of a website can provide a variety of benefits for a corporation. A website can be an active tool in organizational self-presentation that "allow corporations to set public policy agendas"

(Esrock and Leichty, 1998: 306). Most importantly it allows corporations the ability to set their own agenda by avoiding media gatekeepers (Esrock and Leichty, 1998: 306). It allows corporations to present as fact exactly what they want to say to the largest possible audience.

Recognizing the state's declining role in corporate governance, a corporation's move towards CSR becomes a response to the expectations of activists within civil society as well as the state. Beginning as an expectation that a corporation would obey the laws of capitalism and the laws of the state, the concept of CSR has moved beyond the ethics of economic operation to expect corporations to be innovative and go beyond what is required by law, and respond to social norms of philanthropy and charitable giving (Carroll, 1999: 283). This included the development of stakeholder theory that identified the stakeholders of a corporation as more than just the employees and the shareholders, but also the suppliers, customers, local communities and all those connected to and affected by the operations of the corporation.

State governments are increasingly pushing the doctrine of CSR as a means of indirectly regulating corporate behaviour at a distance. In 2001 the member governments at the Summit of the Americas in Quebec City initiated the first Hemisphere-wide conference on CSR. This indicates a growing acceptance of CSR as a new wave of corporate self-regulation ("Americas Conference on Corporate Social Responsibility Promotes Alliances for Sustainable Development of Latin America and Caribbean." [www. iadb.org/exr/PRENSA/2002/cp21202e.htm](http://www.iadb.org/exr/PRENSA/2002/cp21202e.htm)). The US Department of State openly endorses CSR guidelines as "a set of non-binding recommendations from governments to corporations" which are intended to "help companies operate in harmony with

government policies and communities.” The Department professes its desire to form voluntary partnerships with corporations, which it believes is the most effective means of producing sustainable results (Craner, 2002). This dramatically displays the effect of neo-liberal policy on state government initiatives.

CSR and Its Critics: Past and Present

While corporations seem to be accepting notions of social responsibility in large numbers, CSR itself has been open to a great deal of criticism. More commonly criticized for not being sufficiently regulated or being a weak and voluntary policy, CSR is also receiving a renaissance of criticism on economic grounds that echo Milton Friedman’s thoughts of the 1970s that “the only responsibility of business is to make a profit” (Roberts, 2003: 255). Henderson argues that CSR provides a greater burden on all levels of management that has not proven to help either business or society (Henderson, 2001: 59). The International Chamber of Commerce argued that a mandatory code of conduct “would put the clock back to a bygone era” (Richter, 2001: 15). Henderson (2001) argues that CSR is a “misguided virtue” propagated as “part of the mythology of global salvationism” (147) which is rooted in a “salvationist coalition” that presents a distorted view of the impacts of globalization” (83).

On the opposing side of the spectrum CSR can be criticized as a tool that has been captured by corporations to serve their own needs of public relations and identity presentation. Likewise, it can be argued that the policies of CSR do not go far enough, and that its ambiguity renders it useless. The criticism surrounding the concept’s ambiguity can be seen through three main concerns. First there is the problem of

definition. Criticism arises from the fact that there is no clear universal definition of CSR. While various academics and corporations alike dating back over fifty years have attempted to define the term and all that it encompasses, there still remains no consensus or solid operational definition nor is there a clear conceptual understanding of what exactly should be classified as the social good (Roberts, 2003: 250; Esrock and Leichty, 1998: 307; Henderson, 2001: 49). The second major problem surrounds CSR's application. CSR is a voluntary policy. It is not mandated by any organization or government and is up to the corporation to apply it however is seen fit. There is no real right or wrong application and no necessity to apply it if the corporation does not see its values lining up with those of CSR (Neef, 2003: 113; Joseph, 2002: 96; Richter, 2001: 77). The final criticism is that of verification. Since the number of sustainability reports has continually increased, there remains a great deal of question surrounding the validity of environmental and social claims made by a specific corporation. Will a corporation accurately report its own faults and shortcomings? Many sustainability reports are not audited by an independent third party to verify the claims a company makes (Joseph, 2002: 98).

As mentioned earlier, in the 1970s and 80s supporters of the regulatory capture theory feared that industry leaders occupied positions on state regulatory boards (Horwitz, 1986: 140; Richter, 2001: 19). Similar fears prompt current criticism of CSR as being captured by corporations and used to further their own purposes. A major problem for anti-corporate activists during the Nestle infant formula boycott of the 1970s and 1980s was when corporations and regulating bodies came together to negotiate on the contents of an industry code of conduct. The controversy over the marketing of infant

formula included a dispute between the industry and the WHO and United Nations. The industry fought to avoid the implementation of a code of conduct that would guide its marketing practices. Intense negotiation resulted in a watered down, weakly worded document that the industry could use to legitimize its actions (Richter, 2001: 62). While Nestle, the industry's largest producer, worked the hardest to block any form of regulation, it simultaneously established its own office of corporate responsibility in 1977. This may seem to be a contradiction. However, when CSR is understood as an image enhancement, the reasons surrounding the move of corporate policy towards (apparent) *acceptance* of a CSR doctrine becomes clearer (Richter, 2001: 54).

In light of these criticisms, it is necessary to explore specific empirical examples of the application of CSR policies to assess the degree to which it might be a genuine attempt to operate responsibly rather than a public relations ploy. The rest of the paper will focus on the case of Encana, a Canadian oil company, and its operations in Ecuador. It will illustrate the contradiction between its stated commitment to socially responsible investment and its actual performance.

The Case of EnCana

The story of EnCana dates back over one hundred years. While the company in its present form was only created in 2002 by the merger of PanCanadian Energy and the Alberta Energy Company, the company's roots begin in state-mandated initiatives. In 1881 the Canadian government granted the Canadian Pacific Railway twenty five million acres of land as part of a deal to build a transcontinental railway. Such land was most certainly not vacant, but part of a traditional aboriginal hunting and trapping grounds. In

1883 CP workers discovered natural gas while drilling for a well outside Medicine Hat, Alberta. In 1958 CP created the Canadian Pacific Oil and Gas Company to manage its mineral rights holdings. Merging with Central Del Rio Oil in 1971, the PanCanadian Energy Company was created. By 1975 the government of Alberta had decided to establish a public energy corporation in which it would hold a 50% stake “to provide Albertans and other Canadians with an opportunity to participate, through share ownership, in the industrial and energy-related growth of Alberta” (www.encana.ca/whoware/history/index.html). A steady divestment of shares by the government resulted in the government selling its remaining shares in the company by 1993, making it a completely publicly traded company.

In 1999, the Alberta energy company purchased Pacalta Resources and its operations in Ecuador. The future growth of Ecuador’s oil industry was limited by the existing SOTE pipeline built by the government in 1975 that was operating at capacity. Alberta Energy, which became EnCana, became the primary stakeholder (36.3%) of a consortium that negotiated a deal to develop a new pipeline from the Amazonian interior to the Pacific coast for export. The Oleoductos Crudos Pesados (OCP) consortium pipeline would cross over 500 km, cost over \$1.1 billion US and allow EnCana to increase production from 51 000 barrels per day to over 90 000 barrels per day (McClearn, 2003).

While the presence of a major international oil corporation operating in an undeveloped country such as Ecuador is bound to face pockets of resistance from affected local populations, the level of hostility and the international campaign mounted against the company have surprised both observers and management. What is

particularly troubling about EnCana's involvement in Ecuador is not simply its blatant disregard for the environmental and social well being of Ecuador and its residents, but its persistence that its widely publicized corporate constitution is industry leading, and guides all of its dealings and operations as an "inner compass" (www.encana.ca/pdfs/responsibility/English_Constitution.pdf). EnCana claims that wherever it operates, it demands that everything it does is held to the same high standard. However, the construction of the OCP pipeline has forced many of EnCana's claims into the spotlight.

An examination of EnCana's corporate constitution reveals many noble ideas that greatly exceed the traditional corporate commitment to economic value creation. It offers a moral connection between its business practices and its economic expectations:

To excel, to achieve our goals, we must have a shared set of moral principles – an inner compass – that guides our behaviour, and we must have business principles that clearly show the path we will travel. We need to define what we should expect of ourselves and what we can expect of each other. (Corporate Constitution: 9, www.encana.ca/pdfs/responsibility/English_Constitution.pdf)

The Constitution makes very bold claims about how the corporation will conduct itself and how its success is to be measured,

We function on the basis of trust, integrity, and respect. We are committed to benchmark practices in safety and environmental stewardship, ethical business conduct, and community responsibility. Our success is measured through both our behaviour and our bottom line. (11)

It states that EnCana will not tolerate unlawful or unethical behaviour, intimidation or harassment, environmental, health or safety negligence, or workplace discrimination and deceptive communication (24).

If one is to truly accept EnCana's claim that all of its operations are subject to the same set of standards world-wide, it may seem incredibly difficult to comprehend why

such outrage has resulted from practices of the above mentioned calibre. The obvious answer is that there must exist a contradiction between the corporate policies published and the real-time procedures taking place in Ecuador.

The majority of the problems EnCana has faced in Ecuador surround the OCP pipeline. The development of such a large-scale infrastructural endeavour delivered a great deal of publicity that was initially welcomed by the company. The Ecuadorian environmental protection group, Accion Ecologica, has been one of the most vocal organizations combating EnCana's endeavours from within Ecuador. It has been very critical of EnCana's environmental practices of drill sites as well as the procedures and route chosen in the construction of the OCP pipeline. Much of the criticism stems from the fact that EnCana is operating in one of the richest biologically diverse areas of the globe: the Amazonian rainforest. Major practical violations have been reported that lead to severe health affects. Accion Ecologica has reported direct dumping of wastewaters into fresh water rivers. It has conducted tests of drinking water near drill sites that show unacceptable levels of contamination ("EnCana." www.torontoenvironment.org/ecuador/canadian.Htm#encana). Matthew McClearn of Canadian Business magazine documents widespread criticism of local farmers whose farms near sites of production have become barren and whose irrigation streams have become filthy and unusable as a result of pipeline construction (2003).

While EnCana is directly and knowingly contaminating water sources, critics have been equally outraged by the potential ecological disasters that could occur at one of many points along the pipeline's route. The OCP pipeline crosses eleven environmentally protected areas, ninety-four seismic fault lines, and passes six active

volcanoes (Clerk, 2004). On March 1, 2003 sixty barrels of oil spilled from a pumping station along the pipeline during an initial test. Reports were confirmed by OCP representative who later estimated an operational spill could spew roughly 3050 barrels before being controlled (“Environmental Irresponsibility, Corruption and Human Rights Abuse: Canada’s EnCana Corporation’s Contribution to Ecuadorian Development.” www.rainforestinfo.org.au/ocp/canada%20ethical.htm). Oil spills along the existing SOTE pipeline were common, with six in the late 1980s alone (MacClearn, 2003). While critics fear the expansive pipelines susceptibility to landslides and other seismic activity could be disastrous to the ecologically sensitive areas through which it passes, EnCana’s officials have maintained that the construction of the pipeline was engineered to withstand a variety of potential problems. Heaps (personal interview, November 9, 2004) recalls a photograph he took of the pipeline while under construction that had been contorted and mangled from a recent landslide. Tales of construction shortcuts and questionable practices prevail in local communities surrounding the pipeline. Nadja Drost’s film footage displays a section of the pipeline that is supposed to be 1.5 m below ground level that is clearly visible through a thin layer of soil (Drost and Merino, 2004).

EnCana has always claimed that the processes leading to the conception and construction of the OCP pipeline have followed World Bank guidelines demanded by the majority lender for the project: Germany’s WestLB Bank (MacClearn, 2003). However, Robert Goodland, former ecologist for the World Bank, reviewed the OCP environmental impact report and concluded that the OCP had determined the pipeline route long before the assessment was complete and that it lacked consultation with the people it affected. The pipeline route also violated the natural habitats policy because it crossed protected

environmental reserves. OCP's proposal also violates the involuntary relocation policy of the World Bank which requires relocation plans and adequate compensation which the OCP did not include (MacClearn, 2003). The OCP rejected all allegations of wrongdoing, claiming that Mr. Goodland was given misleading information.

Perhaps the most alarming events coming from Ecuador are not simply the environmental disregard shown by EnCana and its subsidiaries, but particularly the accusations of blatant human rights violations. The actions of EnCana and the OCP have sparked protests across the country (MacClearn, 2003). Organized protests surrounding the pipeline's route through the protected Mindo Cloudforest Reserve were met with tear gas and arrest of several protesters ("Residents and Environmentalists Paralyze OCP Pipeline Construction in Mindo." www.amazonwatch.org/_newsroom/view_news.php?id=491; Nelson, 2002). In a similar ten day protest scuffles between security forces and protesters left two civilians dead and five wounded (Jermyn and Shirley, 2002, Heaps, "Tightrope Act." www.corporateknights.ca/stories/ecuador.asp).

The acquisition of land from private landowners for the 500 km pipeline was perhaps one of the OCP's greatest challenges that have led to the greatest degree of public outrage. In the Ecuadorean Amazon, subsistence farming is the main economic activity for local dwellers. And consequently, loss of land results in a loss of livelihood for them. Yet this did not seem to deter EnCana and the OCP from going ahead with their plan and expropriating the land they required. Local residents complain of aggression and intimidation. The OCP hired security forces to forcibly coerce people to sell their land. Over two hundred landowners lodged complaints that the OCP did not pay them for their land, or paid less than the agreed amount. Other complaints included brutality

against women and children (Heaps, “Tightrope Act”). When the Ecuadorian Congress was commissioned to form a hearing for residents to voice their concerns, several hundred residents along the pipeline route complained of police brutality, intimidation, and the use of tear gas to force people from occupied homes (“Environmental Irresponsibility...” www.rainforestinfo.org.au/ocp/canada%20ethical.htm). Authorities have continually denied responsibility for police and security force actions arguing that they are under the paid control of the OCP and are therefore not the responsibility of the state (“Environmental Irresponsibility...” www.rainforestinfo.org.au/ocp/canada%20ethical.htm; Heaps, “Tightrope Act.”).

Toby Heaps recalled a level of outrage among the local population that he had never before witnessed. This outrage was coupled together with an equally fervent denial on the part of EnCana of any wrongdoing. His visit to Ecuador brought a noticeable antagonism from the local population simply due to the association with EnCana as a Canadian corporation. He recalls that “the people at EnCana are just completely willingly, knowingly, or mischievously oblivious to it” (Heaps, personal interview, November 9, 2004). As an editor of a business magazine, Heaps professed a desire to determine a clear and unbiased analysis of the situation in Ecuador. He concedes the validity of the “Golden Goose” phenomenon. This is the desire of a local population brandishing unfounded claims against a multinational corporation in hopes of windfall community development in return for community cooperation. However, in the Ecuadorian situation, Heaps witnessed blatant disregard for the well being of local populations, and a deep-rooted widespread outrage for the severity of the situation. He states, “I tried to find someone that was happy about it [the pipeline]. I talked to

hundreds of people along where it was being built, everyone was pissed” (Heaps, personal interview, November 9, 2004).

EnCana has repeatedly answered the criticisms lobbied against it by claiming that its involvement in Ecuador is for the benefit of the entire nation; that the taxes, royalties, and jobs they supply are in dire need in a country as underdeveloped as Ecuador. They also argue that they go the extra mile by providing community programs that benefit the neglected regions of the nation. The NanPaz foundation was set up by EnCana as a community development centre but has itself faced serious allegations of creating division in the community. Activists allege that EnCana has used the foundation to buy off community leaders with jobs as a means of controlling public sentiment (“Environmental Irresponsibility...” www.rainforestinfo.org.au/ocp/Canada%20ethical.htm). MacClellan (2003) identifies the attitudes of critics who see the “OCP’s community relations efforts as thinly veiled ploys to buy consent.” The cries of the local Ecuadorian public were being heard with increasing clarity at the international level. International NGOs such as Greenpeace Canada, the Toronto Environmental Alliance, the David Suzuki Foundation, Global Aware, and the Sierra Club all called on EnCana to pull out of OCP. A variety of different NGOs organized the Sassenberg Summit in Germany to strategize intensified pressure on home countries of OCP members (“International Alliance Vows to Intensify Opposition in Eight Countries to Ecuador’s OCP Oil Pipeline.” www.amazonwatch.org/newsroom/view_news.php?id=493).

Protests of the German lending bank WestLB have resulted in parliamentary hearings investigating the matter. While unsuccessful in persuading the bank to withdraw its funding from the project, the collaborative efforts of making those involved

aware have not fallen on completely deaf ears. Michael Jantzi Research Associates, a firm advising clients on socially responsible investment considers EnCana ineligible for socially responsible portfolios because of its involvement in the OCP (MacClearn, 2003). Likewise, the social unrest has delivered an instability that has affected the OCP's credit rating. Moody's Investor's Service downgraded their rating of the OCP to near junk status (MacClearn, 2003). However, these criticisms and concerns have done little to change EnCana's behaviour.

These allegations are only magnified by the insistence by EnCana that all of its operations meet the requirements laid out in its own corporate constitution. Such insistence conflicts with the reality of EnCana's behaviour in Ecuador. EnCana's response is that the criticisms regarding its Ecuadorian operations are grossly exaggerated. It could also be argued that the majority of the problems were a result of the OCP. Therefore, EnCana may not have been aware of the reality of the situation. However, EnCana is the largest stakeholder in the consortium with 36.3%. This makes it fairly unlikely that the company would hold such a large stake of a major development project (on which the future of its Ecuadorian operations depended) in any sort of hands-off approach. This is in fact evident by the appointment of Andrew Patterson, EnCana's Chief Financial Officer (CFO) as the president of the OCP. This allowed EnCana direct influence and knowledge of OCP's actions but also strengthens its responsibility for whatever the OCP and its contractors do.

The question that needs to be asked is: if EnCana was "knowingly, willingly, or mischievously" aware of the problems it and the OCP were causing, what is the purpose of having and flaunting a corporate constitution? The answer to this question is directly

related to the benefits provided by such a constitution. While there is an increasing amount of research pointing to the direct benefits of having a corporate code of conduct (Jackson and Nelson, 2004; Neef, 2003; Schwartz and Gibb, 1999) as well as evidence supporting consumer and employee expectation of ethical behaviour (Joseph, 2002; Mohr and Webb, 2001; Ryan, 1986), the most convincing need for the development of a corporate code of ethics comes from events of crisis. Examples of Nestle, Nike, Shell, Texico, Johnson & Johnson, etc. clearly demonstrate episodes that necessitate the development of a code, as well as evidence to respective competitors of the same. The development of a code provides a corporation a licence to operate (Heaps and Rea, "Four Companies and a Code." www.corporateknights.ca/stories/colombia.asp). It legitimizes their operations and provides it a concrete document to fall back when its behaviour comes under attack. When confronted about its operations in Ecuador, EnCana's first response always goes back to its corporate constitution as though no company with such high standards could possibly do anything wrong.

The case of EnCana clearly displays its desire to provide a favourable image of itself, particularly because of its role in a high-risk industry such as petroleum extraction. The importance of corporate image is magnified within politically active and investor-rich nations. For both of these reasons, EnCana would have added incentive to develop and abide by its code of ethics in such nations. As a result, EnCana regularly receives praise for its high social standards when working in Canada and has received awards for its behaviour (MacClearn, 2003; Sheremata, 2003). When its actions are visible to a public that has the power of investment and democratic influence over state governments, EnCana seems to behave well. Likewise, when there is an increasing portion of the

population involving themselves in criteria-based social investing, and when one of EnCana's top seven institutional investors is Ethical Funds ("EnCana." www.torontoenvironment.org/ecuador/canadian.Htm#encana), EnCana seems to take its corporate constitution more seriously. However, when outside of those arenas in remote locations beyond the moral proximity of investors and consumers, EnCana's behaviour begins to look remarkably different.

Processes of neo-liberalism and the deregulation of the international move of capital have provided major corporations effective tools to enlarge their sphere of influence in the void created by a shrinking state. Ecuador in particular has fallen victim to circumstances of insurmountable debt that have left the nation at the mercy of international oil corporations and the revenues they produce. Corporate capital is subsequently elevated into a powerful position in which it can easily exploit foreign markets for its own gain. EnCana is no exception.

As a result, EnCana has been able to maximize its profits. 2004 sales growth targets rose from 10% to 15% by mid 2004 ("EnCana raises sales targets." www.cbcnews.ca) with quarterly profits that topped \$1 billion for both the first and second quarters of 2004 (Jang, 2004). However, despite EnCana's ability to generate incredible wealth from its foreign operations in Ecuador, its moral obligations outlined in its corporate constitution get lost. Its global expansion and overwhelming profits have not been met with the same expansion of EnCana's moral conscience. The reality of EnCana's behaviour in Ecuador displays how easy and viable it can be for a corporation to constantly propagate a constitution of responsibility and ethics yet still operate horrendously contrary to its own published values of CSR. This evidence demonstrates

how dangerous problems that can persist despite constructive moves towards a discourse of CSR. While this in no way justifies the action of EnCana, it does provide insight as to how and why this contradiction between word and deed could occur.

Conclusion

The moral shift of increased social, consumer, and investor activism of the past decade may indeed be having a positive affect on the development of campaigns of CSR. However, the notions of self-government and individual responsabilization which inhabit neo-liberal policies find a way of negating a positive affect and turning it into an additional tool of enterprise. The increasing void of formalized regulatory supervision has created a climate ripe for a self-serving, imaged based doctrine of CSR. EnCana has taken full advantage of an opportunity to exploit not only a foreign nation desperately in need of the tax revenues it provides, but it is also guilty of exploiting the moral conscience of the North American population. EnCana's propagation of an industry leading corporate constitution can be thought of little more than wishful thinking when observed in the light of its ongoing behaviour. When the corporate benefit of a code of CSR is understood, it is difficult to see EnCana's constitution as anything other than a public relations tool. This is particularly a powerful tool in the oil extractive industry that is so heavily dependent on large-scale new investment for the replacement of production sites. A CSR code in this industry can act to convincing both risk-minded and socially-minded investors who would rather stay clear of a volatile and potentially damaging industry such as resource extraction.

The problem for EnCana in Ecuador is that the same technologies that have aided the transfer of capital and corporate information between remote locations allowing EnCana to operate easily all over the world have also allowed civil unrest in those remote locations to become widely publicized world-wide. The result has been a movement of solidarity spanning the globe working to aid the plight of the Ecuadorian population and demand responsible action from EnCana.

This article provides a clear example how adopting policies of neo-liberalism can have very real and damaging effects. It applies theory to practice to illustrate the tremendous impact of pursuing a shift from formalized state regulation to individual responsabilization. Identifying the negative potential of CSR to transfer increasing power into corporate hands, this study provides a sobering view of the dangers that follow the pursuit of new policies that have not yet been clearly defined or sufficiently debated.

Campaigns of corporate social responsibility have the potential to powerfully redefine the manner in which business is done and the subsequent affects thereof. However, as this article illustrates, CSR can fall victim to various forces which shift and contort the ideals of the doctrine into a tool of publicity for the corporation rather than a genuine concern of its stakeholders. This article displays how easily this can occur. Whether or not CSR is motivated by valour intentions, the reality of this situation clearly illustrates how dangerous neo-liberal policies of unregulated, self-mandated guidelines can be. Placing increasing power in the hands of corporations such as EnCana clearly demonstrates how easily a well-intending doctrine of CSR can be easily manipulated to suit the demands and desires of its corporate propagators. Even when openly disclosed, accusations of a corporation's malpractice encounter ignorance and denial from those

responsible. When asked to comment on the concerns raised in this article, EnCana denied an interview and said that questions regarding how it conducts its operations could be found in its corporate constitution published on its website. Such an unfortunate response clearly indicates the dangers of self-government and relaxed regulatory procedures in the operations of corporations such as EnCana.

References Cited

- Carroll, Archie, (1999). "Corporate Social Responsibility: Evolution of a Definitional Construct." *Business and Society*, 38(3), pp. 268-295.
- Cashore, Benjamin, (2002). "Legitimacy and the Privatization of Environmental Governance: How Non-State Market-Driven (NSMD) Governance Systems Gain Rule-Making Authority." *Governance: An International Journal of Policy, Administration, and Institution*, 15 (4), 503-529.
- Clerk, Scott, (2004, January 17). "EnCana pipeline divides Ecuador." *Queen's Journal*. 26(130). Retrieved on September 9, 2004 from www.queensjournal.ca/article.php?point=vol130/issue26/Features/lead1
- Colvin, Geoffrey, (2002, April 29). "Tapping the Trust Fund." *Fortune Magazine*.
- Craner, Lorne W. (2002, June 18). "Promoting Corporate Social Responsibility Abroad: The Human Rights and Democracy Perspective." *US Department of State*, Retrieved on January 26, 2005 from www.state.gov/g/drl/rls/rm/11405.htm
- Daraio, Cinzia, and Giuseppe Turchetti, (2004). "How Deregulation Shapes Market Structure and Industry Efficiency: The Case of the Italian Motor Insurance Industry." *The Geneva Papers on Risk and Insurance*. 29 (2), 202-218.
- Dean, Mitchell, (2003). *Governmentality: Power and Rule in Modern Society*. London: Sage Publications.
- Drost, Nadja, and Luis Merino, (2004, March 10). "Rude Oil." Presentation of Global Aware Canada, University of Windsor, Windsor, Ontario, Canada.
- Escobar, Patricio, (2003). "The New Labour Market: Effects of the Neoliberal Experiment in Chile." *Latin American Perspectives*, 30(5), pp. 70-78.
- Esrock, Stuart, and Greg Leichty, (1998). "Social Responsibility and Corporate Web Pages: Self-presentation of Agenda Setting?" *Public Relations Review*, 24(3), pp. 305-319.
- Heaps, Toby A.A.. (n.d.) "Tightrope Act." *Corporate Knights Magazine*. Retrieved on March 21, 2004 from www.corporateknights.ca/stories/ecuador.asp
- Heaps, Toby A.A.. and Michael Rea. (n.d.) "Four Companies and a Code." *Corporate Knights Magazine*. Retrieved on March 21, 2004 from www.corporateknights.ca/stories/colombia.asp
- Henderson, David, (2001). *Misguided Virtue: False Notions of Corporate Social Responsibility*. London: Institute of Economic Affairs.

- Horwitz, Robert, (1986). "Understanding Deregulation." *Theory and Society*. 15(1), pp. 139-174.
- Jackson, Ira and Jane Nelson, (2004). *Profits with Principles*. Toronto: Currency Doubleday.
- Jang, Brent, (2004, March 13). "EnCana profits gush on." *The Globe and Mail*. Retrieved on March 21, 2004 from www.globeinvestor.com/Servlet/ArticleNews/print/GAM/20030730/RENCA
- Jermyn, Leslie, and Clive Shirley, (2002, July 29). "Outrage in the Rain Forest." *Maclean's Magazine*. Retrieved on June 16, 2004 from www.macleans.ca/topstories/world/article.jsp?content=69579
- Joseph, Ella, (2002). "Promoting Corporate Social Responsibility: Is Market-based Regulation Sufficient." *New Economy*, pp. 96-101.
- Manokha, Ivan, (2004). "Corporate Social Responsibility: A New Signifier? An Analysis Of Business Ethics and Good Business Practice." *Politics*, 24(1), pp. 56-64.
- McClearn, Matthew, (2003, March 17). "Down the Tube: how Calgary's EnCana bet big on Ecuadorian oil and made plenty of enemies." *Canadian Business Magazine*. Retrieved on May 21, 2004 from www.canadianbusiness.com/features/article.jsp?content=20030317_52747_52747&page=1
- Mohr, Lois, and Deborah Webb, (2001). "Do Consumers Expect Companies to be Socially Responsible? The Impact of Corporate Responsibility on Buying Behaviour." *The Journal of Consumer Affairs*, 35(1), pp. 45-72.
- Neef, Dale, (2003). *Managing Corporate Reputation and Risk*. New York: Elsevier.
- Nelson, Margo, (2002). "Pipe Dreams: EnCana, Oil and Ecuador." Retrieved on August 13, 2004 from www.torontoenvironment.org/ecuador/canadian.htm#encana
- Raines, J. Patrick and Charles G. Leathers, (1995). "Veblen's Theory of Institutional Change: An Explanation of the Deregulation of Japanese Financial Markets." *The American Journal of Economics and Sociology*. 54, pp. 357-367.
- Richter, Judith, (2001). *Holding corporations accountable : corporate conduct, international codes and citizen action*. New York: Zed Books.
- Roberts, John, (2003). "The Manufacture of Corporate Social Responsibility: Constructing Corporate Sensibility." *Organization*, 10(2), pp. 249-265.

- Rose, Nikolas, (1999). *Powers of Freedom: Reframing Political Thought*. Cambridge: Cambridge University Press.
- Ruggie, John Gerard, (2004). "Reconstituting the Global Political Domain – Issues, Actors and Practices." *European Journal of International Relations*, 10 (4), 499-531.
- Ryan, Michael, (1986). "Public Relations Practitioners' Views of Corporate Social Responsibility." *Journalism Quarterly*, 63 (4), 740-748.
- Schwartz, Peter and Blair Gibb, (1999). *When Good Companies Do Bad Things*. New York: John Wiley and Sons Inc.
- Sheremata, Davis, (2003, February 6). "EnCana honoured with Senator Thelma Chalifoux Award." *Northern Alberta Institute of Technology*. Retrieved on May 21, 2004 from www.nait.ab.ca/news/feb2004/encana_honoured.htm
- Trebing, Harry. "Assessing Deregulation: The Clash between Promise and Reality." *Journal of Economic Issues*. 38(1), 2004, pp. 1-27.
- Weeks, John, (1999). "Trade Liberalization, Market Deregulation and Agricultural Performance in Central America." *Journal of Development Studies*, 35(5), pp. 48-75.

Internet Sources with Unknown Author:

- "Americas Conference on Corporate Social Responsibility Promotes Alliance for Sustainable Development of Latin America and Caribbean." (2002, September 24). Retrieved on July 16, 2004 from *Inter-American Development Bank Press Release*. www.iabd.org/exr/PRENSA/2002/cp21202e.htm
- "EnCana raises sales targets." (2004, June 15), *CBC News*, Retrieved on July 29, 2004 from www.cbcnews.ca
- "EnCana." Retrieved on July 16, 2004 from www.torontoenvironment.org/ecuador/canadian.Htm#encana
- "Environmental Irresponsibility, Corruption and Human Rights Abuse: Canada's EnCana Corporation's Contribution to Ecuadorian Development." Retrieved on August 13, 2004 from www.rainforestinfo.org.au/ocp/canada%20ethical.htm
- "International Alliance Vows to Intensify Opposition in Eight Countries to Ecuador's OCP Oil Pipeline." Retrieved on May 21, 2004 from www.amazonwatch.org/Newsroom/view_news.php?id=493

“Residents and Environmentalists Paralyze OCP Pipeline Construction in Mindo.”
Retrieved on May 21, 2004 from www.amazonwatch.org/newsroom/view_news.php?id=491

www.encana.ca/pdfs/responsibility/English_Constitution.pdf

www.encana.ca/whoweare/history/index.html

www.encana.ca/whoweare/values/index.html

Vita Auctoris

David Demant was born in 1979 in Kitchener, Ontario. He graduated from Forest Heights Collegiate Institute in 1998. From there he went on to Wilfrid Laurier University where he obtained a B.A. in History and Sociology in 2002. He is currently a candidate for the Master's degree in Sociology at the University of Windsor and hopes to graduate in June 2005.