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‘Human Energy’: Chevron’s environmental campaign and the Ecuador case. Rhetoric or reality?

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1) Introduction

Only a few weeks after the sixtieth birthday of the Universal Declaration of Human Rights (UDHR), and cases like the trial involving Chevron¹ in Ecuador remind us how much there remains to do in implementing the Declaration. In Ecuador, some of the main UDHR articles have been blatantly violated², firstly by Texaco and then by Chevron in its subsequent efforts to deny these violations. However, recent events in the long pending trial provide some hope for the possibility of a sentence that could make history and render the UDHR a living reality, not just a dusty piece of paper. Indeed, Chevron could potentially be forced to pay out as much as \$27 billion as a result³.

The Ecuadorian disaster - that some have not hesitated to refer to a genocide or an ‘Amazon Chernobyl’⁴ - can also help to shed some light on the fuzzy concept of Corporate Social Responsibility (CSR) and, in particular, on the notion of ‘environmental responsibility’. For this reason, in this article I take a look at Chevron’s recent ‘Human Energy’ campaign. An analysis of this campaign, I suggest that CSR and the emphasis on environment are, in reality, only the latest corporate ‘fashion’, part of a neo-liberal discourse⁵ that is too often pure rhetoric⁶

¹ Chevron is among “the world’s six “supermajor” oil companies”. http://en.wikipedia.org/wiki/Chevron_Corporation

² <http://www.unhcr.ch/udhr/lang/eng.htm> articles 1, 2, 3, 5, 16.3, 22, 25 to mention only a few.

³ see <http://www.chevrontoxico.com/article.php?id=491> and

<http://www.chevrontoxico.com/article.php?id=494>)

⁴ Isikoff, M. (2008)

⁵ See Thompson, G. (2007)

⁶ As a report by Covalence’s has suggested: “The evolution of Retailers illustrates the non-spontaneous nature of Corporate Social Responsibility (CSR): as it has been observed in other industries, companies that are doing the most are generally the ones that have been particularly criticized in the past: the largest ones” (p.1).

http://www.covalence.ch/docs/PressRelease_CovalenceRetailIndustryReport2008_11.12.2008.pdf

or a calculated marketing strategy⁷. As Professor Bakan stressed in his book, *The Corporation*, CSR is a necessity today, as corporations must “show that they deserve to be free of governmental constraints and, indeed, to participate in governing society.” In this light, CSR is not only needed to prove that Corporations are “responsible and accountable to society,” but to validate their increasing role as good “society’s rulers”(2005, p.27)⁸.

2) The concept of CSR

Professor J. Rowe provides a useful starting point for debates about CSR, defining it as:

“the **voluntary contribution** of finance, goods or services to community or governmental causes. It excludes activities directly related to firms’ production and commerce. It also excludes activity required under legislation or government direction” (Moon in Rowe, 2005, p.3).

As his definition suggests, CSR is therefore by nature an ambiguous and elusive concept, a set of principles or actions that are beyond legal obligation and, in essence, a voluntary ‘concession’ of the corporation. In other words, CSR is essentially nothing but a “good resolution”, with no need for formal accountability or means of enforcing a company's long-term commitment, and it is perhaps this reason above all that explains the widespread scepticism that continues to surface in relation to the concept⁹.

Arguably one of the key reason of this problem of accountability is treated in a compelling article by Dan Plesch (2005), who considers the privileged condition of limited liability and the contradictions that this concept entails. As Plesch stresses, the limitation of responsibility in corporations create a situation of inequality by providing “the owners, the shareholders, with complete power, but with no responsibility for the consequences of their actions [...] This power without responsibility is driving the whole structure of global civilisation and yet it violates fundamental principles of justice and human rights in a free society” (Plesch, 2005, p.2). As he concludes, this situation allows “the most powerful to be above the law, when in a free society all should be equal before the law” (Plesch, 2005, p.2).

In a related manner, a very useful and persuasive correlation is made by Bakan (2005) between the development of CSR and a long succession of crises in legitimacy suffered by the corporations over the last

⁷ See Rowe, J.K. (2005), *Corporate Social Responsibility as Business Strategy* or Bakan (2005, p.144) “people’s angst about corporations [...] can be tamed by Corporate Social Responsibility”. In other words, CSR is seen as a way to regain public approval.

⁸ A similar point is also made in a report by Christian Aid: “Business [...] has consistently used CSR to block attempts to establish the mandatory international regulation of companies’ activities.” (Christian Aid, 2004, p.2).

⁹ As stressed by Jenkins, concerning labour regulation that can also be applied to environment regulation: “What Corporate codes of conduct must do [...] is to effectively self-limit the firm’s power [...] The likelihood of this occurring voluntarily is, of course, a matter of concern for many activists, and the reason why very few commentators are willing to consign all labour regulation to the sole responsibility of the firm” (Jenkins et al,2002, p.37-8).

hundred years or more. Bakan argues the earliest developments in the art of persuading the public of the 'humanity' of corporations occurred during the corporation's first legitimacy crisis in the early 1900, reminding us of the AT&T strategy launched in the early 20th century to "persuade a sceptical public to like and accept the company" (Bakan, 2005, p.17). After WWI this new 'art' started to be used by many companies, especially during the 30's when a second 'image and legitimacy' crisis affected corporations who were seen as one of the causes of the Great Depression. In this climate, "Corporate Social Responsibility blossomed" as it came to be seen as the way "to restore people faith's in corporations and reverse their growing fascination with big government"(Bakan, 2005, p.19). From the New Deal up to the 70's "the growing power of corporations was offset, at least in part, by continued expansion of government regulation, trade unions, and social programs" (Bakan, 2005, p20-1). However, it was then that the era of neo-liberalism began, and with it the limitation of government's intervention in the economy and a global wave of privatization, deregulation and fundamentalization of the markets that "vaulted the corporation to unprecedented power and influence" (Bakan, 2005, p.21). However, in the context of this resurgence of power, the 90's saw a series of events (such as the Exxon scandal or the no-global movement in Seattle) that led to another image crisis for corporations. Simultaneously, climate change and disasters, such as the Tsunami or the devastating hurricane Katrina that swept away much of New Orleans, have refocused public attention - and consequently the attention of the politicians - on environmental issues.

It is in this context that Chevron developed their 'Human Energy' concept, and it is on the actions and words of this company that the remainder of my article will focus.

3) Historical background of the Ecuador case

It was 1964 when TexPet (Texaco Petroleum Company) began looking for oil in northeast Ecuador. The following year it started operating a consortium in partnership with Gulf Oil that in 1974 sold a 25% share to the Ecuadorian national oil company PetroEcuador (which by 1993 became the entire consortium's owner). In 1993 *Aguinda v. ChevronTexaco* began, a class action suit against Texaco filed by 30,000 Indigenous people from the Amazon in a New York federal court alleging that an environmental and human disaster had taken place. The plaintiffs claimed that 18.5 billion gallons of toxic 'produced water'¹⁰ was dumped in Amazon waterways, that pits were filled with toxic sludge and that about 17 million gallons of crude oil were accidentally spilled in the area, with highly detrimental effects on the health of rainforest residents who started experiencing high rates of cancer, leukaemia and spontaneous miscarriages. Although Chevron admitted some of the responsibility, Texaco and then Chevron (when in 2001 it bought Texaco and assumed the defense of the case) have been claiming that there is no casual link between the produced water and the different health problems affecting the populations in the area. Instead they argue that the poor hygienic conditions of the

¹⁰ Produced water is defined as "water that is produced along with the oil and gas. Produced water originates from water that is trapped in permeable sedimentary rocks within the wellbore. Disposal of produced water can be problematic in environmental terms due to its highly saline nature". From <http://www.offshore-technology.com/glossary/produced-water.html>

indigenous people are the main reason for the health problems. In addition, Chevron claims that they already dealt with the environmental issue in the 90's by paying a sum of \$40 million for a remediation in the area¹¹.

When the process began, Texaco pushed insistently to move the trial out of the US for '*forum non conveniens*'. The Court finally agreed to the request to transfer the trial to Ecuador but under the condition that Texaco would accept the Ecuadorian jurisdiction and verdict¹². In 2003 the Aguinda plaintiffs re-filed their complaints in Ecuador. Since then, the \$16 billion damages assessment has grown to a sum of \$27 billion that Chevron could be forced to pay as environmental liability in Ecuador. This news is the latest in this long trial. The verdict, expected early this year, could finally do justice to the many people who died and to the contamination of one of the earth's most precious areas of biodiversity: the Amazon rainforest.

4) Chevron's 'Human Energy'

Between September and October last year, Chevron decided to launch a campaign to change its image and offer the world a new vision of a socially and environmentally responsible company¹³.

However, Chevron's 'image' problems are not restricted to the Ecuadorian case alone. Indeed, in the past few years the company has been alleged to be involved with some staggering examples of damaging and unethical corporate behaviour, such as providing support to the Burma military junta¹⁴ or being involved with the assassination of two environmental activists in Nigeria¹⁵.

While, as Pablo Fajardo, a Goldman Prize winner and the lawyer that leads the class action suit against ChevronTexaco in Ecuador, has commented:

“Chevron has tried to paper over its problems by spending millions to tout the company's new 'human energy' slogan. Chevron's so-called 'green' advertising campaign is a fraud when compared to the company's environmental record in the Amazon”¹⁶

How to disagree with Mr. Fajardo given that Chevron's website now contains a 'moral lesson' on “natural capital” and on the importance of environmental responsibility. In particular, they caution that this 'capital' should not be taken for granted as it is “vital for sustainable economic and social progress” and they continue by telling us how “energy [and its] development, transport, and use of energy from all sources impact the environment”. I cannot even imagine the face of Pablo Fajardo while reading this after having been fighting for years to defend his “natural capital”.

¹¹ See [http://www.chevrontoxico.org/downloads/QandA20SEP18\[1\].pdf](http://www.chevrontoxico.org/downloads/QandA20SEP18[1].pdf)

¹² The legal case can be consulted at <http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=2nd&navby=case&no=017756>

¹³ <http://www.washingtonpost.com/wpdyn/content/article/2007/09/27/AR2007092702033.html>

¹⁴ 'Chevron supports Myanmar's brutal regime' by Amy Goodman, October 3, 2007

http://seattlepi.nwsource.com/opinion/334126_amy04.html

¹⁵ The Wire Amnesty International, November 2005 Vol. 35 N.10

<http://www.amnestyusa.org/business/nigeriareport/NovemberWireArticle.pdf#chevron>

¹⁶ 'Amazon Defense Coalition: Chevron Hires Global Warming Denier as Consultant' <http://www.marketwatch.com/news/story/Amazon-Defense-Coalition-Chevron-Hires/story.aspx?guid={631D82E4-E691-424F-B491-00DB56C23F65}>.

The 'green' campaign is the continuation of an environmental campaign that the company started 3 years ago¹⁷.

Navigating Chevron's 'Human Energy' website main page you can see that while they emphasise the need to find "newer, smarter and cleaner"¹⁸ energies, their main energy sources still remain oil, gas and coal that together make up 87% of Chevron's energy sources¹⁹.

Instead of engaging in finding alternative energies, they keep investing billions of dollar to find and deliver "oil from a single deepwater field". They say they are concerned with the improvement of their environmental impact in extracting oil and gas but they don't even consider the impact that their products have on environment.

After searching for convincing proof on Chevron's website but finding only superficial information on the real nature of the company's commitment to the environment, I thought that maybe by looking at the hard figures I would be able to find justification for Chevron's new and responsible corporate image. I searched the 10-K document for Chevron where it is possible to find some explanations as to how they spend their money. Here is what I found:

"Total reported expenditures for **2007** were \$20 billion, [...] Of the \$20 billion in expenditures for 2007, 78 percent, or **\$15.5 billion**, related to upstream activities (**exploration and production**). Approximately the same percentage was also expended for upstream operations in 2006 and 2005 [...] In 2008, the company estimates capital and exploratory expenditures will be 15 percent higher at \$22.9 billion [...] About three-fourths of the total, or \$17.5 billion, is budgeted for exploration and production activities, with \$12.7 billion of that amount outside the United States."²⁰ (p.4).

So, with such a huge amount of money spent on oil and gas exploration and production, it seems a reasonable question to ask whether such a responsible corporation would spend an equally large amount on renewable energy? The answer was pretty depressing. The 'All Other' expenditures' section that included alternative fuels - but only as one among many other components - totalled **\$774 million** for 2007. Not a big amount in comparison with the **\$15.5 billion** spent in the same year for upstream activities. For the Research & Technology section, that embraces projects for alternative energies (the Technology Ventures Company is included here that runs investments and projects in emerging energy technologies) and other research and development's expenditures, the numbers were no better:

¹⁷ see the section in the company's website called 'Real Issues' or the willyoujoinus campaign

¹⁸ <http://www.chevron.com/stories/>

¹⁹ <http://www.chevron.com/deliveringenergy/>

²⁰ <http://www.sec.gov/Archives/edgar/data/93410/000095013408005470/f37829a1e10vkza.htm#128>

“Chevron’s **research and development** expenses were **\$562 million**, \$468 million and \$316 million for the years **2007**, 2006 and 2005, respectively [...]the company’s overall investment **in this area is not significant to the company’s consolidated financial position.**”²¹(p.31)

Finally, the concept of social responsibility should surely be concerned with the provision of information on both the company’s ‘good’ and ‘bad’ practice²². Hence, I was expecting to find at least some mention of the trial in Ecuador given that it has been going on since the early 90’s. Instead, the trial was not mentioned at all either there, in the page in which the company tells its shareholders about possible future risks, or in the section that treat the current legal proceedings. Instead the only risk they are concerned with is the increasing of “the scientific and political attention to issues concerning the existence and extent of climate change”, that as they notice is very likely to happen, and the “potential for further regulation that affects the company’s operations” that might enlarge the “costs or reduce the demand for the products the company sells”(p.33)²³.

How is it possible to trust a company that fails to provide any clear information or documents on its ‘responsible’ attitude? Indeed, one that is clearly much happier admitting its hostility to regulation than providing accounts of its own actions. Perhaps it is best to conclude with the reminder that Friedman himself, the ‘guru’ of neo-liberalism himself, claimed that the true ‘social responsibility’ of the Corporation is to profit not charity²⁴ and, given Chevron’s emphasis on appearances over substance, that appears to be perfectly in line with the reality of their approach.

5) Conclusion

A victory for the Ecuadorian’s *campesinos* would be a crucial step in protecting the Yasuni reserve and their inhabitants in south Ecuador from similar disasters in the future and helping to preserve their way of life. Perhaps just as importantly, it would provide a crucial lesson for all corporations, surely a much needed warning after many years of corporations’ worst actions going unpunished. Indeed, the *Newsweek*’s article by Michael Isikoff (2008) remarks how the company itself suggested that a loss could set a dangerous precedent for other U.S. Multinationals.

Further, the arguments set out in this paper lead to several logical conclusions:

- The necessity to revise the current regulation for the responsibility of corporations.
- The need for preemptive preventative principles for environmental and health issues instead of reactive measures²⁵
- The need to deal with the controversial issue of limited liability that is both a legal anomaly and an impediment to effectively enforcing true corporate responsibility²⁶.

²¹ <http://www.sec.gov/Archives/edgar/data/93410/000095013408005470/f37829a1e10vkza.htm#128>

²² As Klaus Schwab stresses in his article for *Foreign Affairs*: “Corporate social responsibility is measured through so-called triple bottom-line accountability, according to which a company reports not only on its financial results but also on what it is doing and what it is not doing in meeting stakeholder expectations of its environmental and social responsibilities.”

²³ <http://www.sec.gov/Archives/edgar/data/93410/000095013408005470/f37829a1e10vkza.htm#128>

²⁴ Friedman, M. (1970), ‘The Social Responsibility of Business is to Increase its Profits’, *The New York Times Magazine*

²⁵ As Bakel (2005) remarks legislation is often “reactive, rather than preventive”(p.152).

Finally, I would like to recall Covalence's work and the important role that could assume in cases like the one of Chevron in Ecuador, where it is extremely important to keep the attention of public high. Indeed, this might help ensuring a less corrupted and more transparent trial as the international community is watching. Covalence, along with other NGOs and Civil Society organisations, have a crucial role in keeping the public informed and aware.

By contributing to the education of the public, they can enable citizens to see through expensive marketing rhetoric and reach their own opinions. Does that include 'Human Energy', Chevron's emblem of its new 'green' commitment.

I for one can't help but think so.

²⁶ See Plesch (2005). See also the article Ethicalcorp.com where it is stated that "The fact that shareholders enjoy the privileges of ownership without carrying any of the responsibilities of ownership has produced one of the great anomalies of our time."

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