

# Multinationals and their value chains

An ethical perspective on multinational value chains operating in developing countries with inadequate institutions

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*This master's thesis is carried out as a part of the education at the University of Agder and is therefore approved as a part of this education. However, this does not imply that the University answers for the methods that are used or the conclusions that are drawn.*

## **Abstract**

This thesis looks at ethical challenges faced by multinational organizations operating in developing countries with inadequate institutions. With a focus on the value chains, it highlights the participants and outside stakeholders that affect the reality of the multinational organizations. The cases presented concerns two different companies operating two different countries, Royal Dutch Shell plc in Nigeria and Hennes & Mauritz AB in Cambodia. The thesis discusses the value chains and their problems based on responsibility, on fundamental principles of ethics (perspective of justice), and on applicable principles developed by non-governmental organizations. The thesis concludes with a new perspective on the responsible participants in the value chains and presents some recommendations on how companies, in the future, should face the reality of operating in developing countries with inadequate institutions.

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## Introduction

For a little over one hundred years ago Norway was what we today would have characterized as a developing nation. Life was rough, poverty was widespread and people had to work hard in order to put food on the table. The mezz institutions provided little or no protection against poor working environments, long working hours and low wages. If you tried to speak up against your boss, you probably would get fired, because there were so many other workers ready to take your place, hoping to make a living. The situation was so desperate for many families that the parents had to send their children, as low as six or seven years old, out of their homes looking for work from April to November<sup>1</sup>. It was desperate times marked by hunger and hardship. While in Bergen, wealthy ship-owners were living in luxury, getting rich off the misery of their employees<sup>2</sup>. There were no requirements for health and safety regulations, no code of conduct and no intention of improving the lives of those you affected.

Today, the international business environment has evolved. Due to globalization we are able to share and access information like never before. Through the media, television, and social networks we are able to receive information about international events at a moment's notice. This development has in turn led to a new awareness to how organizations conduct their business. The focus on social responsibility is becoming more widespread than ever before, and organizations can no longer conduct business without constantly being monitored by society. The consumers and outside stakeholders are in a position where they can influence organizations in a whole new way. In particular, multinational organizations (MNO) operating in developing countries with inadequate institutions has received a lot of attention regarding violations of labor rights, human rights, or other country related conditions. The differences in both culture and development status are leading factors that will distort the point of view for many of the critics, blaming multinational organizations for realities that are very complex and difficult to solve. It is important to realize that these multinational organizations are part of huge value chains that can stretch from an end user in Europe to a cotton farmer in Africa or South East Asia, involving participants and stakeholders from all over the world.

In this thesis I will present some of the problems faced by MNO's operating in developing countries. My focus will be to identify some of the most important participants and outside stakeholders that affect the value chain, and how they contribute to the problems. I have chosen two cases, represented by two different companies, operating in two different

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<sup>1</sup> Sandnes, 2009

<sup>2</sup> Wikipedia, 2014b

industries. The reason for this is to show that organizations operating in developing countries may face similar problems, and that these are not unique for one industry or country. The cases I have chosen are Royal Dutch Shell plc (Shell) in Nigeria and Hennes & Mauritz AB (H&M) in Cambodia. Both cases present problems faced by many MNO's and they will serve well to depict the challenging environment that is international business.

When MNO's are faced with ethical problems they might have different ways to approach it. Many want to do the right thing because it is right (i.e. for its own sake), but may be constrained by local conditions. Others might be more cynical in the way they conduct their business and may try to reduce costs to the point where other participants in the value chain suffer. Either way, the reality is that MNO's are often caught between two very different cultures and doing nothing may lead to loss of money, reputation, customers, or investors.

It is important to realize that, as Norwegians or Swedes, something we might view as unethical behavior may be normal for Cambodians or Nigerians. And it is in this cultural gap the challenge of knowing how to approach occurs. Should we follow the ethical views our own culture when we decide the course of action? Should we follow the ethical views of the local culture of the developing country? Or do we follow a universal ethics? These are difficult questions to answer. The cultural differences of what is viewed as right and wrong can often result in conflicts for many organizations operating in developing countries. These conflicts may in turn impact on the value chain. As consumers, we have a tendency to put the blame the MNO's when we hear about poor working conditions for garment worker, oil spills or human rights violations in the media. But as this thesis seeks to highlight, the reality is much more complex and there are factors that must be taken into account before passing blame. The role of the media is another important aspect worth mentioning. Tabloids have a tendency to not always report both sides of the story. The tabloids need to report shocking news in order to sell newspapers. Imagine a normal distribution curve which represents events happening around the world. The stories that would be placed the middle of the curve (95%) might be important news, but it is not necessary interesting news. Therefore, the tabloids report on things that are placed on the edges (5%) of the normal distribution curve. In turn, this will often lead to a distortion of the truth that lacks the overall perspective and can have negative effects on the MNO's.

As Norwegians, living in the “best” country in the world, we have a perspective on labor conditions, human rights, environmental issues that might not align with the perspective of other countries. For example in Norway, paying or receiving bribes is illegal, but in Nigeria and Cambodia it is part of everyday transactions, like paying for a parking ticket. Corruption and illicit activities are one of many contributing factors to the reality which will be presented in this thesis. These cultural differences affect the whole value chain and will often determine how organizations act in certain situation. They affect the whole value chain from the end customer buying clothes in Norway to the garment worker in Cambodia, from the motorist buying motor oil in a gas station in England to the local fisherman in Nigeria who can’t provide food for his family because of oil contamination. There are many affected parties and the list of participants and outside stakeholders is long, mentioning the companies, governments, consumers, suppliers, NGO’s, labor unions, competitors, etc.

I wish to highlight these issues because it seems that many are under the perception that the MNO’s are responsible for all ethical problems connected to their activities in developing countries. By presenting the value chains and identifying the participants and stakeholders involved, I hope to provide a new perspective on what it means to conduct business in developing countries with inadequate institutions.

The thesis will first look into institutions and present a framework to test the adequacy of institutions in the perspective of justice. The framework consist of three fundamental principles and the adequacy of the institutions are determined by their ability to promote the GOOD and human flourishing. It will continue to look at responsibility and power of the MNO’s, and then presents four ethical frameworks consisting of applicable principles for social responsibility. A brief presentation of the companies, countries, and the realities will follow. This will make up the basis of the discussion. After a brief analysis of the institutions, it discusses the cases based on responsibility and the ethical frameworks. Finally, the thesis will conclude and present some recommendations to complement the existing ethical principles.



# Theory

## Institutions

Institutions can be defined as “the humanly devised constraints that shape human interaction. In consequence, they structure incentives in human exchange, whether political, social or economic” (North, 1990) Institutions can be viewed as the traffic rules of a specific culture.

These traffic rules are made up by norms and values, laws and regulations (Falkenberg, 2007).

One can choose to act within the institutional “traffic rules” or outside. Institutions can be divided into three different levels; macro, mezzo, and micro level. At the macro level are those institutions that will affect the international transaction; the mezzo level are those institutions at the national level, the jurisdiction specific related to the governance of the country; the micro level is related to the specific local culture, the traffic rules of behavior

(Falkenberg & Falkenberg, 2010, p. 356). The figure below depicts institutions in an international value creating network.

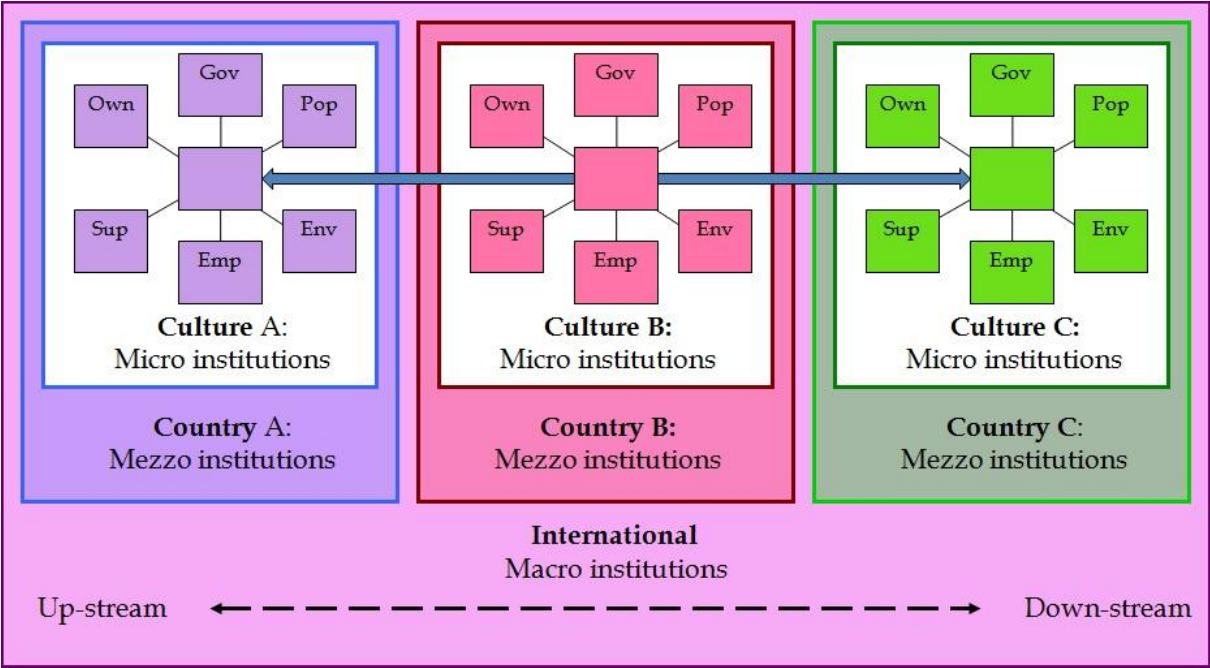


Figure 1: Institutions in an international value creation network. 3

At every level of the value creating networks problems may arise for a MNO operating in a developing country, it is therefore useful to analyze the institutions from a ethical perspective to determine whether some institutions are promoting or violating ethical principles (Falkenberg, 2007).

<sup>3</sup> Illustration by Falkenberg, based on Falkenberg & Falkenberg, 2010, p. 356

## The principles of “The Good” and Just Institutions

What is “the good”? This question was raised by Aristotle in his works the “*Nicomachean Ethics*” and the “*Eudemian Ethics*” and it relates to the ethics regarding human flourishing, what is best for human beings (Kraut, 2014). Based on Aristotle’s ethics we can say that the purpose of ethics is “to improve the lot of human-kind”: to ensure “*eudaimonia*” or happiness as Aristotle called it, translated into “human flourishing” or “living well and doing well” (Falkenberg, 2007, p. 7). So when one goes forth evaluating the institutions one should assess the “goodness” of the institutions to see if they promote human flourishing (Falkenberg, 2007). The ethical perspective of justice will be used to evaluate the institutions.

The framework I will present was developed by Falkenberg (1996) as an extension of John Rawls (1971, in Falkenberg 1996). The main idea behind Rawls’ framework is that in the process of making institutions a panel of rule-makers “in the original position under a veil of ignorance” should be used to arrive at a theory of justice (Falkenberg 1996). Falkenberg (1996) extended Rawls’ framework and assumed that the panel should (a) discuss and create a universal notion of the “GOOD”, and (b) decide on the ground-rules for society, and create the necessary institutions. If (b) is followed, the notion of the “GOOD” under (a) will be achieved (Falkenberg, 1996). Those institutions that promote the “GOOD” are just institutions, while those who do not promote it are considered unjust institutions (Falkenberg, 1996). Thus, the institutions that are just are the ones that should govern our behavior and an individual or organization acting according to just institutions is an ethical individual/organization (Falkenberg, 1996). The members of the panel will meet “in the original position”, which means that they will not be arguing from any one position (slave or slave-owners), but making rational decisions under conditions of equality and free choice (Falkenberg, 1996). But, the panel also meets “under the veil of ignorance” so that the members do not know whose interests you will represent until the veil is lifted (Falkenberg, 1996). You might end up as a disable person in the slums of Mumbai present day, a slave in Egypt during the time of the Pharaohs, or as a newborn 300 years from now. Old, young, man, woman, pretty, fat, black, or white, it does not matter because all panel members are ignorant of their future positions and will therefore argue rationally for the best possible institutional arrangements (Falkenberg, 1996). The panel members are “all in the same boat”, so they will arrive at solutions they can live with, even in the worst position (Falkenberg, 1996).

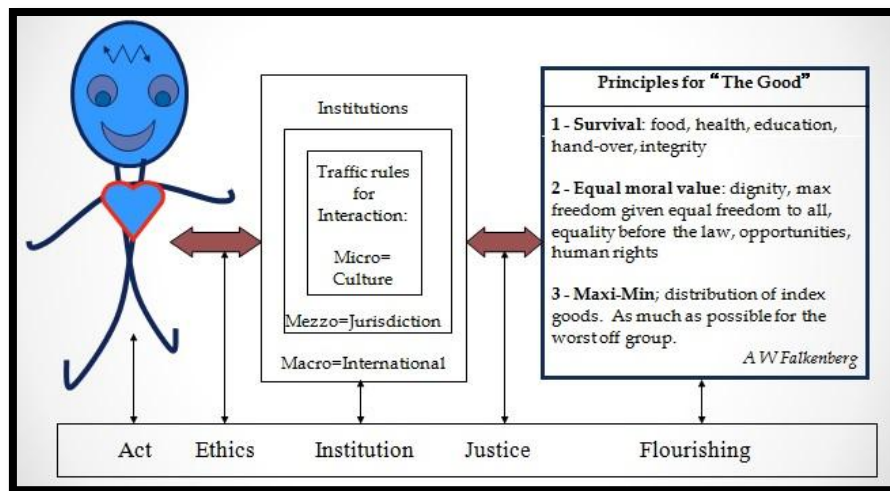


Figure 2: Acts are ethical if they follow institutions which promote flourishing in terms of justice. 4

### ***The first principle: Survival and Hand-Over***

The first principle deals with life itself. It is hard to see that any of the panel members will argue against life, because that would mean they argue in favor of death (Falkenberg, 1996). No matter what type of life that would be drawn for the participants, it must be possible to live that life, therefore a principle of survival would require some definition of a minimum requirements in terms of (a) nutrition; (b) health; and (c) a set of basic survival tools (or relevant basic education) without which survival is impossible (Falkenberg, 1996, p. 166). Since the population most likely will increase over time each generation would have to *hand over* the world to the next in an improved state, which is necessary in order to ensure the survival of future generations (Falkenberg, 1996). Many of today’s current institutions lack the ability to make decisions according to the first principle, and making short-sighted decisions can produce possible negative consequences. Falkenberg (1996) states that it would be desirable that the first principle to be adopted by our moral compasses and become part of our bone-marrow ethics.

### ***The second principle: Equal Moral Standing***

The second principle deals with equal moral standing of all people. Rawls (1971, in Falkenberg, 1996, p. 167) formulates this as follows: “*Each person has an equal right to the most extensive scheme of all equal basic liberties compatible with a similar scheme of liberties for all*”. There should not be differentiation between people when assigning rights and liberties – or moral worth. Factors which an individual has no control over are not legitimate reasons for differential treatment and should be removed from consideration

<sup>4</sup> Retrieved from Falkenberg & Falkenberg, 2010, p. 357

(Falkenberg, 1996). Examples of such factors can be time and place of birth, gender, age, birth defects, predisposition for certain behaviors, and some talents (intelligence).

The institution of national borders is limited by the second principle in terms of differential treatment of people (Falkenberg, 1996). If an individual do not have the opportunity to move to another jurisdiction a panel member would not likely vote in favor of the institution of the nation state as we have seen them in the past centuries (Falkenberg, 1996). The panel would not allow a nation state to be able to discriminate others in favor of their own citizens if it is in violation of the principle of equal moral standing (Falkenberg, 1996). An exception to the equal moral standing principle may go as follows: “The panel might agree that it should be allowed to discriminate in favor of one’s immediate family in certain cases (i.e., parents, siblings, and children). If a member of your family and a stranger are drowning and you can save only one, the panel might accept that you discriminate in favor of the family member; so that you save your mother or your son or your sister rather than the stranger” (Falkenberg, 1996, p. 168). The family should be viewed by the panel as the best institution for reproduction, learning, socialization care and nurturing of young and old, as well as a provider of much needed survival tools, and this seems to work reasonably well from one culture to the next (Falkenberg, 1996). Many wars, present and past, have been fought because of the failure uphold the principle of equal moral standing for different people living in the same jurisdiction.

### ***The third principle: Maxi-Min for Index Goods***

The third principle deals with the institutional framework for the distribution of index goods (income, wealth, social basis for self respect, rights, and professional powers, etc.). Rawls (1971, in Falkenberg, 1996) argues that the panel will choose from, and select the institutional arrangement that will maximize the benefits of the least advantaged group; the maxi-min principle. An unequal distribution of index goods should benefit those less fortunate and in the original positions it is hard to think that anyone would make choices that will not be consistent with the maxi-min principle (Falkenberg, 1996). According to Rawls (1971, in Falkenberg, 1996): “Social and economic inequalities are to meet two conditions: they must be (a) to the greatest expected benefit of the least advantaged; and (b) be attached to offices and positions open to all under conditions of fair equality opportunity.” The latter corresponds to the equal moral standing principle (Falkenberg, 1996).

## Responsibility and Power

An important question to ask related to this thesis is: how far goes the responsibility of MNO's? Can they be held accountable for the operations and actions of others, such as the suppliers and customers in the value chain?

Toffler (1986, in Falkenberg, 2004) states that I may be responsible...

- 1) if I am "response-able" or "response-capable" (ability to respond to a problem)
- 2) by virtue of my role (a father is responsible for his children)
- 3) for something that I have caused to happen (borrowed money, responsible for the repayments of the loan)

The Oxford Dictionary defines the word responsibility<sup>5</sup> as:

1. *"The state or fact of having a duty to deal with something or of having control over someone"*
2. *"The state or fact of being accountable or to blame for something"*
3. *"A moral obligation to behave correctly towards or in respect of"*

From these definitions we can see that responsibility is related to power. Power<sup>6</sup> is defined by the Oxford Dictionary as:

*"The capacity or ability to direct or influence the behavior of others or the course of events"*

The level of power an organization holds towards their value-chain can be an indicator of their responsibility towards other parties.

## ISO 26000 – Guidance on social responsibility

Social responsibility, or corporate social responsibility (CSR), is a term that came into widespread use during the 1970s (NS-ISO26000, 2010), but the modern view of CSR can be traced back to the 1950s with Howard R. Bowen's (1953) book *Social Responsibilities of the Businessman* which is argued to mark the beginning of the literature on the subject (Carroll, 1999). Bowen (1953) defined corporate social responsibility as: *"The obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society"* (Carroll, 1999). Another definition provided by the World Business Council for Sustainable Development reads: *"Corporate Social Responsibility is the continuing commitment by*

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<sup>5</sup> Oxford Dictionary, 2014a

<sup>6</sup> Oxford Dictionary, 2014b

*business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.*" (WBCSD, 2014)

The focus on social responsibility has previously been related to businesses, but as different types of organizations realized that they had a responsibility for contributing to sustainable development it is therefore proposed that we should take out "corporate" in the CSR term, and just call it social responsibility (NS-ISO26000, 2010). Social responsibility was previously centered on philanthropic activities such as giving to charity, but over time the focus changed towards subjects such as labor practices and fair operating practices (NS-ISO26000, 2010). Later subjects such as human rights, the environment, countering corruption and consumer protection were added over time as they were given greater attention (NS-ISO26000, 2010). There are a number of reasons why the focus on social responsibility of organization has increased over the past decades. Globalization has enabled the accessibility of information, communication and mobility. This has provided the opportunity for individuals and organizations to know about the activities and operations of organizations both at nearby and distant locations (NS-ISO26000, 2010). In addition to benefit from learning new ways of doing business and solving problems, organizations' activities are subject to scrutiny by a wide variety of groups and individuals and the policies applied can be readily compared (NS-ISO26000, 2010). Because of the global nature of some health and environmental issues, the growing financial and economic interdependence, worldwide recognition of the responsibility for combating poverty, and more geographically dispersed value chains it is more evident that the matters relevant to an organization may extend well beyond those existing in the immediate area in which the organization is located (NS-ISO26000, 2010). Even though economic or social conditions are challenging it is important that organizations address social responsibility.

Over the past several decades globalization has resulted in an increase in the impact of several types of organizations (NGO's, governments, private sector) on communities and the environment (NS-ISO26000, 2010). Some organizations have become the providers of services usually provided by government when present in countries with inadequate institutions, it is therefore very important that these organizations continue working with social responsibility even in times of economic/financial difficulties.

## **The ISO 26000 Principles of Social Responsibility**

The ISO 26000 document provides seven principles of social responsibility, and organizations *“should base their behavior on standards, guidelines or rules of conduct that are in accordance with acceptable principles of right or good conduct in the context of specific situations, even when these are challenging”* (NS-ISO26000, 2010, p. 10).

### **Accountability**

*“An organization should be accountable for its impact on society and the environment.”*

(NS-ISO26000, 2010, p. 10)

The principle imposes an obligation to the management to be answerable to the controlling interests of the organization and for the organization to be answerable to the laws and regulations imposed by local authorities, as well as the overall society (NS-ISO2600, 2010). The degree to which an organization is accountable may vary corresponding to the extent or amount of authority (NS-ISO26000, 2010). Being accountable also means taking responsibility for decisions or operations that have caused problems, and to the best ability try to remedy for the wrongdoing (NS-ISO26000, 2010).

### **Transparency**

*“An organization should be transparent in its decisions and activities that impact on society and the environment.”*

(NS-ISO26000, 2010, p. 11)

An organization should disclose in a clear, accurate and complete manner and get to a reasonable and sufficient degree, the policies, decisions and activities for which it is responsible, including the known and likely impacts on society and the environment (NS-ISO26000, 2010, p. 11). It is important that this information is easy accessible and understandable for all stakeholder that have been or may be affected by the organization. The information should be timely and factual, and be presented in a clear and objective manner so stakeholders easily assess the potential impact the organization have on their respective interests (NS-ISO2600, 2010). The principle does not require an organization to publish information that would breach legal, commercial, security or personal private obligations (NS-ISO26000, 2010).

## ***Ethical Behavior***

*“An organization should behave ethically at all times”*

(NS-ISO26000, 2010, p. 11)

The organization should base their behavior on the ethics of honesty, equity and integrity. This implies a concern for people, animals, the environment, and stakeholders’ interests (NS-ISO26000, 2010).

An organization can actively promote ethical behavior by:

- Developing governance structures that help promote ethical conduct within the organization and in its interaction with others.
- Identifying, adopting and applying standards of ethical behavior appropriate to its purpose and activities and consistent with the principles outlined in the International Standard.
- Preventing or resolving conflicts of interest throughout the organization that otherwise lead to unethical behavior.
- Establishing oversight mechanisms and controls to monitor and enforce ethical behavior.
- Establishing mechanisms to facilitate the reporting of unethical behavior without fear of reprisal.
- Recognizing and addressing situations where local laws and regulations either do not exist or conflict with ethical behavior.

(Retrieved from NS-ISO26000, 2010, p. 11-12)

## ***Respects for stakeholder interests***

*“An organization should respect, consider and respond to the interests of its stakeholders”*

(NS-ISO26000, 2010, p. 12)

An organization should acknowledge the fact that other individuals or groups that go beyond the organizations respective owner, members, customers or constituents, may also have rights, claims or specific interests regarding the organization, and these should be taken into account (NS-ISO26000, 2010). These groups and individuals comprise the organization’s stakeholders.



### ***Respect for the rule of law***

*“An organization should accept that respect for the rule of law is mandatory”*

(NS-ISO26000, 2010, p. 12)

The rule of law refers to the supremacy of law and, in particular, to the idea that no individual or organization stands above the law and the government is also subject to the law (NS-ISO26000, 2010, p. 12). It contrasts with the arbitrary exercise of power. An organization, which respects the rule of law, should comply with every applicable law or regulation, and take steps in order to raise the awareness within the organization of these laws and regulations.

### ***Respect for international norms of behavior***

*“An organization should respect international norms of behavior, while adhering to the principle of respect for the rule of law”*

(NS-ISO26000, 2010, p 13)

- In countries where the law or its implementation does not provide for minimum environmental or social safeguards, an organization should strive to respect international norms of behavior.
- In countries where the law or its implementation significantly conflicts with international norms of behavior, an organization should strive to respect such norms to the greatest extent possible.
- In situations where the law or its implementation is in conflicts with international norms of behavior, and where not following these norms would have significant consequences, an organization should, as feasible and appropriate, review the nature of its relationships and activities within that jurisdiction.
- An organization should consider legitimate opportunities and channels to seek influence relevant organizations and authorities to remedy any such conflict.
- An organization should avoid being complicit in the activities of another organization that are not consistent with international norms of behavior.

(Retrieved from NS-ISO26000, 2010, p. 13)

## ***Respect for human rights***

*“An organization should respect human rights and recognize both their importance and their universality”*

(NS-ISO26000, 2010, p. 13)

An organization should:

- Respect and foster the rights set out in the International Bill of Human Rights.
- Accept that these are universal, that is, they are indivisibly applicable in all countries, cultures, and situations.
- In situations where human rights are not protected, take steps to respect human rights and avoid taking advantage of these situations; and
- In situations where the law or its implementation does not provide for adequate protection of human rights, adhere to the principle of respect for international norms of behavior.

(Retrieved from NS-ISO26000, 2010, p. 13)

## **UN Global Compact**

The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with the ten universally accepted principles in the areas of human rights, labor, environment and anti-corruption (UN Global Compact, 2013, Overview). As social, political and economic challenges (and opportunities) – whether occurring at home or in other regions – affect business more than ever before, many companies recognize the need to collaborate and partner with governments, civil society, labor and the United Nations (UN Global Compact, 2013, Overview). And with over 12,000 corporate participants and other stakeholders from over 145 countries, it is the largest voluntary corporate responsibility initiative in the world (UN Global Compact, 2013, Overview).

## The ten principles

### Human Rights

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
- Principle 2: make sure that they are not complicit in human rights abuses.

### Labor

- Principles 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principles 4: the elimination of all forms of forced and compulsory labor;
- Principles 5: the effective abolition of child labor; and
- Principles 6: the elimination of discrimination in respect of employment and occupation.

### Environment

- Principle 7: Businesses should support a precautionary approach to environmental challenges;
- Principle 8: undertake initiatives to promote greater environmental responsibility; and
- Principle 9: encourage the development and diffusion of environmentally friendly technologies.

### Anti-Corruption

- Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

(Retrieved from UN Global Compact, 2013, the Ten Principles)

## OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are developed as recommendations addressed by governments to multinational enterprises. The Guidelines aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate and to enhance the contribution to sustainable development made by multinational enterprises (OECD, 2011, p. 13). The guidelines provide

voluntary principles and standards for responsible business conduct consistent with applicable laws and internationally recognized standards (OECD, 2011). Over time the international business seen a far-reaching structural change and with rise of service and knowledge intensive industries and the expansion of the Internet economy, the service and technology enterprises are playing an increasingly important role in the international marketplace (OECD, 2011). Multinational enterprises has also evolved to encompass a broader range of business arrangements and organizational forms, such as strategic alliances and closer relations with suppliers and contractors, which have made the boundaries of the enterprise blurry (OECD, 2011). These changes in structure are also depicted in the increased operations in developing countries. Going from primarily production and extractive industries in developing countries, multinational enterprises have diversified into manufacturing, assembly, domestic market development and services (OECD, 2011). Many multinational enterprises have also become major international investors in developing countries which they are based. Many new challenges have arisen for multinational enterprises as the nature, scope and speed of economic changes has presented itself. The multinational enterprises now have the opportunity to implement best practice policies for sustainable development in order to ensure coherence between economic, environmental and social objectives (OECD, 2011).

*“Many multinational enterprises have demonstrated that respect for high standards of business conduct can enhance growth.”* (OECD, 2011, p. 14) But, with the intense competitive forces that dominates today’s markets multinational enterprises face a variety of legal, social and regulatory settings (OECD, 2011). The temptation to neglect principles and standards of conduct in an attempt to reap the benefits of a potential competitive advantage may be overwhelming for some multinational enterprises. Such practices by the few may call into question the reputation of the many and may give rise to public concerns (OECD, 2011). Many enterprises have responded to these public concerns by developing internal programs, guidance and management systems that underpin their commitment to good corporate citizenship, good practices and good business and employee conduct (OECD, 2011).

## The Principles

Principle 1: The first obligation of the enterprise is to obey the domestic laws.

- The Guidelines are not a substitute for nor should they be considered to override domestic law and regulation. However, in countries where domestic laws and regulations conflict with the principles and standards of the Guidelines, enterprises should seek ways to honor such principles and standards to the fullest extent which does not place them in violation of domestic law.

Principle 2: Since the operations of multinational enterprises extend throughout the world, international co-operation in this field should extend to all countries.

- Governments adhering to the Guidelines encourage the enterprises operating on their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.

Principle 3: A precise definition of multinational enterprises is not required for the purposes of the Guidelines.

- These enterprises operate in all sectors of the economy. They usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, State or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities).

Principle 4: The Guidelines are not aimed at introducing differences of treatment between multinational and domestic enterprises; they reflect good practice for all.

- Accordingly, multinational and domestic enterprises are subject to the same expectations in respect of their conduct wherever the Guidelines are relevant to both.

Principle 5: Governments wish to encourage the widest possible observance of the Guidelines.

- While it is acknowledged that small- and medium-sized enterprises may not have the same capacities as larger enterprises, governments adhering to the Guidelines nevertheless encourage them to observe the Guidelines' recommendations to the fullest extent possible.

Principle 6: Governments adhering to the Guidelines should not use them for protectionist purposes nor use them in a way that calls into question the comparative advantage of any country where multinational enterprises invest.

Principle 7: Governments have the right to prescribe the conditions under which multinational enterprises operate within their jurisdictions, subject to international law.

- The entities of a multinational enterprise located in various countries are subject to the laws applicable in these countries. When multinational enterprises are subject to conflicting requirements by adhering countries or third countries, the governments concerned are encouraged to co-operate in good faith with a view to resolving problems that may arise.

Principle 8: Governments adhering to the Guidelines set them forth with the understanding that they will fulfill their responsibilities to treat enterprises equitably and in accordance with international law and with their contractual obligations.

Principle 9: The use of appropriate international dispute settlement mechanisms, including arbitration, is encouraged as a means of facilitating the resolution of legal problems arising between enterprises and host country governments.

Principle 10: Governments adhering to the Guidelines will implement them and encourage their use.

- They will establish National Contact Points that promote the Guidelines and act as a forum for discussion of all matters relating to the Guidelines. The adhering Governments will also participate in appropriate review and consultation procedures to address issues concerning interpretation of the Guidelines in a changing world.

(List of principles are retrieved from OECD, 2011, p. 17-18)

The document also provides a list of general policies which deals with specific recommendations for the enterprise. I will base my analysis on these general policies. I have selected those policies I found would best suit my purposes, specifically those policies regarding human rights, labor, and the environment. The list of policies presented below are excerpts from the document.

Enterprises should:

1. Contribute to economic, environmental and social progress with a view to achieving sustainable development.
2. Respect the internationally recognized human rights of those affected by their activities.
3. Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to human rights, environmental, health, safety, labor, taxation, financial incentives, or other issues.
4. Support and uphold good corporate governance principles and develop and apply good corporate governance practices, including throughout enterprise groups.
5. Engage with relevant stakeholders in order to provide meaningful opportunities for their views to be taken into account in relation to planning and decision making for projects or other activities that may significantly impact local communities.
6. Abstain from any improper involvement in local political activities.

Human Rights (OECD, 2011, p. 31)

7. Respect human rights which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.
8. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
9. Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.
10. Have a policy commitment to respect human rights.

11. Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

Labor (OECD, 2011, p. 35-37)

12.

- Respect the right of workers employed by the multinational enterprise to establish or join trade unions and representative organizations of their own choosing.
- Respect the right of workers employed by the multinational enterprise to have trade unions and a representative organization of their own choosing recognized for the purpose of collective bargaining, and engages in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on terms and conditions of employment.
- Contribute to the effective abolition of child labor, and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency.
- Contribute to the elimination of all forms of forced or compulsory labor and take adequate steps to ensure that forced or compulsory labor does not exist in their operations.
- Be guided throughout their operations by the principle of equality of opportunity and treatment in employment and not discriminate against their workers with respect to employment or occupation on such grounds as race, color, sex, religion, political opinion, national extraction or social origin, or other status, unless selectivity concerning worker characteristics furthers established governmental policies which specifically promote greater equality of employment opportunity or relates to the inherent requirements of a job.

13.

- Provide information to workers' representatives which are needed for meaningful negotiations on conditions of employment.



- Provide information to workers and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole.
- 14. Promote consultation and co-operation between employers and workers and their representatives on matters of mutual concern.
- 15.
  - When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy the basic needs of the workers and their families.
  - Take adequate steps to ensure occupational health and safety in their operations.
- 16. In their operations, to the greatest extent practicable, employ local workers and provide training with a view to improving skill levels, in co-operation with worker representatives and, where appropriate, relevant governmental authorities.
- 17. Enable authorized representatives of the workers in their employment to negotiate on collective bargaining or labor-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorized to take decisions on these matters.

Environment (OECD, 2011, p. 42-44)

- 18. Establish and maintain a system of environmental management appropriate to the enterprise, including:
- 19. Taking into account concerns about cost, business confidentiality, and the protection of intellectual property rights:
- 20. Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them.
- 21. Consistent with the scientific and technical understanding of the risks, where there are threats of serious damage to the environment, taking also into account

human health and safety, not use the lack of full scientific certainty as a reason for postponing cost-effective measures to prevent or minimize such damage.

22. Maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities.
23. Contribute to the development of environmentally meaningful and economically efficient public policy, for example, by means of partnerships or initiatives that will enhance environmental awareness and protection.

(Exerts retrieved from OECD, 2009)

## **The Caux Round Table Principles for Responsible Business**

The seven principles presented below are the Caux Round Table's (CRT) approach to responsible business. With roots in three ethical foundations the principles recognize that while laws and market forces are necessary, they are insufficient as guides for responsible business conduct (Caux Round Table, 2009).

### **The seven principles**

#### *Principle 1 – Respect stakeholders beyond shareholders*

- A responsible business acknowledges its duty to contribute value to society through the wealth and employment it creates and the products and services it provides to consumers.
- A responsible business maintains its economic health and viability not just for shareholders, but also for other stakeholders.
- A responsible business respects the interests of, and acts with honesty and fairness towards, its customers, employees, suppliers, competitors, and the broader community.

#### *Principle 2 – Contribute to economic, social and environmental development*

- A responsible business recognizes that business cannot sustainably prosper in societies that are failing or lacking in economic development.
- A responsible business therefore contributes to the economic, social and environmental development of the communities in which it

operates, in order to sustain its essential ‘operating’ capital – financial, social, environmental, and all forms of goodwill.

- A responsible business enhances society through effective and prudent use of resources, free and fair competition, and innovation in technology and business practices.

*Principle 3 – Build trust by going beyond the letter of the law*

- A responsible business recognizes that some business behaviors, although legal, can nevertheless have adverse consequences for stakeholders.
- A responsible business therefore adheres to the spirit and intent behind the law, as well as the letter of the law, which requires conduct that goes beyond minimum legal obligations.
- A responsible business always operates with candor, truthfulness, and transparency, and keeps its promises.

*Principle 4 – Respect rules and conventions*

- A responsible business respects the local cultures and traditions in the communities in which it operates, consistent with fundamental principles of fairness and equality.
- A responsible business, everywhere it operates, respects all applicable national and international laws, regulations and conventions, while trading fairly and competitively.

*Principle 5 – Support responsible globalization*

- A responsible business, as a participant in the global marketplace, supports open and fair multilateral trade.
- A responsible business supports reform of domestic rules and regulations where they unreasonably hinder global commerce.

*Principle 6 – Respect the environment*

- A responsible business protects and, where possible, improves the environment, and avoids wasteful use of resources.

- A responsible business ensures that its operations comply with best environmental management practices consistent with meeting the needs of today without compromising the needs of future generations.

*Principle 7 – Avoid illicit activities*

- A responsible business does not participate in, or condone, corrupt practices, bribery, money laundering, or other illicit activities.
- A responsible business does not participate in or facilitate transactions linked to or supporting terrorist activities, drug trafficking or any other illicit activity.
- A responsible business actively supports the reduction and prevention of all such illegal and illicit activities.

(List of principles retrieved from CRT, 2009, p. 2-3)

### **Distinction between fundamental principles and applicable principles**

I have now presented the ethical principles I will base my analysis and discussions on. Some of these principles may be viewed as more fundamental, while others are more what we can call applicable principles or recommendations. It is therefore important to make a distinction between the fundamental principles and the applicable principles that are based on the fundamental principles. The fundamental principles are the three principles of just institutions: survival, equal moral standing, and maxi-min. The applicable principles can be found in the ethical codexes of the ISO 26000, the UN Global Compact, the OECD Guidelines, and the Caux Round Table principles. To highlight the relation between the fundamental and applicable principles I will show how the applicable principles relate to the fundamental principle of survival. In order to ensure survival it would require some minimum requirements in terms of food, health, education, labor, etc.

The ISO 26000 has two principles that relate to the fundamental principle of survival: the principle of ethical behavior and the principle of respect for human rights. The principle of ethical behavior, though only in an overall sense, relates to the fundamental principle of survival in the way it states that organizations should concern themselves with ethical behavior regarding people, animals, the environment, and stakeholders. Ethical behavior implies that an organization should seek to ensure survival for the people it affects. Any

violations of the principle of survival would result in violations of human rights, which in turn relates to the principle of respect for human rights.

The UN Global Compact has three principles that relates to the fundamental principle of survival. The 1<sup>st</sup> principle deals with human rights and the obligation businesses hold to support and respect these. If the principle of survival is violated, so are the human rights. The 4<sup>th</sup> principle deals with labor and the obligation for a business to eliminate forced and compulsory labor. An individual is dependent on work in order to make a living for itself, in accordance with the principle of survival. But forced and compulsory labor has negative effects on the quality of life of the individual, and denies adequate means of survival. The 10<sup>th</sup> principle deals with corruption and the obligation of a business to work against it. In a broader sense the results of corruption can deny individuals the basic tools of survival, which violates the principle.

The OECD Guidelines for Multinational Enterprises has three principles, or general policies, that relates to the fundamental principle of survival. Policy nr 7 deals with human rights and the respect a company should hold for them. It relates the same way as with the ISO 26000 principle. Policy nr 12, point 3 and 4, deals with child labor and forced or compulsory labor. Both child labor and forced/compulsory labor violates the fundamental principle of survival. This relation is also described above. Policy nr 15 deals with the wages, benefits and conditions of the workplace in countries with inadequate institutions. It also addresses the importance of ensuring occupational health and safety in their operations. An individual require work in order to ensure its survival, but that job must provide a living wage. The working conditions must not affect the workers health. If these factors are violated, the principle of survival is violated.

The Caux Round Table Principles for Responsible Business has two principles that can be related to the fundamental principle of survival. The 2<sup>nd</sup> principle deals with the contribution of economic, social and environmental development. If a company does not contribute to the development of the institutions and surroundings of the country in which it operates, it could result in negative effects for the population, which in turn could lead to violation of the fundamental principle of survival. The 7<sup>th</sup> principle deals with corruption and illicit activities. Businesses should not participate in these activities because it could lead to violation of the principle of survival.

I have now connected some of the applicable principles to the fundamental principle of survival in order to show that the applicable principles are derived from the basis of the fundamental principles. I have only highlighted the principle of survival because I believe it is not necessary to do the same thing with the fundamental principles of equal moral value and maxi-min, because we would much of the same connections.

## Research Methodology

The research question of this thesis is “What challenges do the value chains of MNO’s operating in developing countries with inadequate institutions face?” Supporting the main question are two secondary questions; “Can the MNO’s be blamed for these challenges?” and “Are there any universal recommendations (across all industries) for handling these challenges?”

In this thesis I will use an exploratory research design which will be based on secondary data. Exploratory research is conducted to clarify ambiguous situations or discover potential business opportunities (Zikmund, Babin, Carr & Griffin, 2013). Exploratory research is not intended to provide conclusive evidence from which to determine a particular course of action, but rather as a first step, conducted with the expectation that additional research will be needed to provide more conclusive evidence (Zikmund et al., 2013).

Secondary data is defined as “*data that have been previously collected for some purpose other than the one at hand*” (Zikmund et al., 2013, p. 160). The primary advantage of the secondary data is the availability. It is also a fast and inexpensive way to procure information and data. On other hand, secondary data may not meet the requirements or the needs of the researcher’s hypotheses or research questions. This is often because of (1) variation in definition of terms, (2) the use of different units of measurements, (3) inadequate information to verify the data’s validity, and (4) data are too old (Zikmund et al., 2013). But these factors do not have that much influence when using exploratory research design, as opposed to using a descriptive design.

The data collected through the process of writing the thesis have been divided into on three categories, or themes; country, company, or case specific. Even though the data was divided into categories the information that was found were spread across categories, intertwined with each other. The countries will be Nigeria and Cambodia and the focus towards the two countries is data related to the institutions, such as level of corruption, economic

development, etc. The companies are Shell and Hennes & Mauritz with data related to general company specifics and current actions towards social responsible conduct. The cases relate to the two companies' operations in the two countries, where both actors have faced difficulties of different, but yet similar sort. The information will make up the basis of my analysis and discussions. I will first analyze the institutions of the two countries to determine if they can be deemed inadequate, and then I will continue discussing the responsibility of the companies, including other value chain participants. I will finish discussing the cases based on the fundamental and applicable principles of ethical behavior.

When using an exploratory research design the process of gathering information is a potential pitfall. Taking the nature of the cases into account, the information retrieved from different news articles and tabloids presents interesting and important point of views, but they might not be reliable. Tabloids tend to report news from the "far edges of the map" in order to sell more papers or get more views. The information retrieved from the companies themselves, governments or NGO's are often more reliable. Most of the information I have collected from both reports and statistics come from what I deem as reliable and serious sources, like United Nations and Transparency International. A fact worth mentioning is that results presented from NGO's, such as Amnesty International, may have an agenda to "smear" the reputation of the MNO's and therefore lead them to exaggerate their results. But as this is exploratory research, exact numbers and statistics is not necessary and do not affect the results of the conclusion as much as if quantitative analysis were conducted.

## **Shell in Nigeria**

### **Royal Dutch Shell plc**

The Royal Dutch Shell Group was created in 1907 through the merger of Shell Transport and Trading Company and Royal Dutch Petroleum Company. There were two separate holding companies with Royal Dutch taking 60% of earnings and Shell Transport taking 40% (Shell, 2014a). Over the following decades, a period marked by war and economic difficulties, the company grew and expanded its operations to many different parts of the world. The company started its commercial production of oil in Nigeria in 1958 (Shell, 2014a). The Shell Petroleum Development Company of Nigeria Ltd (SPDC) operates Nigeria's largest oil and gas joint venture on behalf of the government-owned Nigerian National Petroleum Corporation (55 %), SPDC (30 %), TEPGN (10 %), and NAOC (5 %), (Shell Nigeria, 2014a).

In the 1980s, Shell grew through acquisition and started some of its most challenging offshore exploration projects. During the 90s Shell founded its LNG business and at the beginning of the millennium it started moving into new growth areas in the East. In 2005, Royal Dutch and Shell Transport were unified under Royal Dutch Shell plc (Shell, 2014a). Shell is organized in three businesses: Upstream, Downstream, and Projects & Technology.

- The Upstream business searches for and recovers crude oil and natural gas. It liquefies and transports natural gas, and operates the infrastructure needed to deliver both oil and natural gas to market (Shell, 2014a).
- The Downstream business manages Shell's refining and marketing activities for oil products and chemicals. Refining includes manufacturing, supply and shipping of crude oil (Shell, 2014a).
- The Projects & Technology organization manages the delivery of major projects and drives research and innovation to develop new technologies (Shell, 2014a).

The company reported revenue of \$ 451,235 billion in 2013 (Shell, 2014b).

## Nigeria

Located in West Africa, the Federal Republic of Nigeria is Africa's most populous country and the seventh most populous country in the world, with a population close to 177 million (CIA, 2014a). Because of its wealth of oil Nigeria has become the largest economy in Africa and the 26<sup>th</sup> largest economy in the world (Magnowski, 2014). After gaining their independence from Great Britain on October 1<sup>st</sup> 1960 Nigeria went through turbulent periods with military coups and civil war, until 1999 when it elected Olusegun Obasanjo, the former military head of state, as the new President of Nigeria (Wikipedia, 2014a). The current president of Nigeria is Goodluck Ebele Jonathan. Nigeria is the 12th largest producer of petroleum in the world and the 8th largest exporter. The country also has the 10th largest proven reserves in the world. The country joined the Organization of the Petroleum Exporting Countries (OPEC) in 1971. Petroleum plays a large role in the Nigerian economy, accounting for 40% of GDP and 80% of Government earnings (Wikipedia, 2014a).

Nigeria is ranked 144 out of 177 countries in the Transparency International's Corruption Perceptions Index (CPI) 2013 (Transparency International, 2014a).

Corruption has long been a problem in Nigeria and it seems like it will take a long time to overcome. Even though Nigeria is Africa's largest oil producer, it has some of the lowest human development indicators in the world (Transparency International Secretariat, 2014).



The country has one of the highest inequality levels in the world and this despite its vast resources (UNDP, 2009). The inequality ranges from uneven income levels, differential access to basic infrastructure, education, training and job opportunities, to inequality between genders (UNDP, 2009). The Human Development Index trends for 2013 also underpin the poor conditions in Nigeria, with a rank of 153 out of 187 countries. There are many reasons for this, but corruption plays a huge role in the negative development of these factors. Transparency International recently released the Global Corruption Barometer (GCB) for 2013, surveying the experience of everyday people confronting corruption around the world. The 2013 GCB rated political parties and the Nigerian Police as the most corrupt institutions in Nigeria (Transparency International, 2014b). The two institutions that characterize the existence and flourishing of democracy in any country are the party system and the institution of parliament. If one of these institutions is corrupt (political parties carry the moral burden of being the den of corruption), then it is right to say that a democracy is sick (Peterside, 2013). The police are the other institution that shapes the growth of democracy and helps in the maintenance of law and order in a purely democratic setting (Peterside, 2013). This institution has been described in the Transparency International report as *“the bastion of corruption with no ray of hope”* (Peterside, 2013). Hon. Dakuku Peterside (member of House of Representatives and Chairman, House Committee on Petroleum Resources in Nigeria) asks the question in a news article from The African Sun Times where Nigeria’s hope lies if *“these two institutions (political parties and the Police) that I consider most critical to the growth and survival of democracy and our country Nigeria has been described in such very uncomplimentary terms by TI GCB report”*? (Peterside, 2013) Hope can be found in the small steps like the announcement by the Nigerian President Goodluck Jonathan of a full investigation into the oil sector where as much as US\$20 billion are alleged to have disappeared from the state-owned oil company (Transparency International Secretariat, 2014). Corruption and missing revenues have a huge impact on the Nigerian society. It is depriving Nigerian citizens of vital developments crucial to the improvement of their quality of life.

### **Shell’s value chain**

The illustration below depicts Shell’s value chain related to their operations in Nigeria. It highlights the main structures of the value chain, along with the different participants and stakeholders affected by the company’s operations. There may be aspects of the value chain which is not included, but the illustration is only intended to serve as a brief overview of the

value chain. An interesting thing to notice is the connection the Nigerian government has with Shell through the joint venture SPDC. The Nigerian National Petroleum Corporation (NNPC) manages the joint venture with ownership of 55 %, and it is not hard to imagine that operating with such close connections to the Nigerian government can offer some challenges for Shell. The NNPC have been accused of major corruptive practices and have been investigated for embezzlement regarding oil revenues.

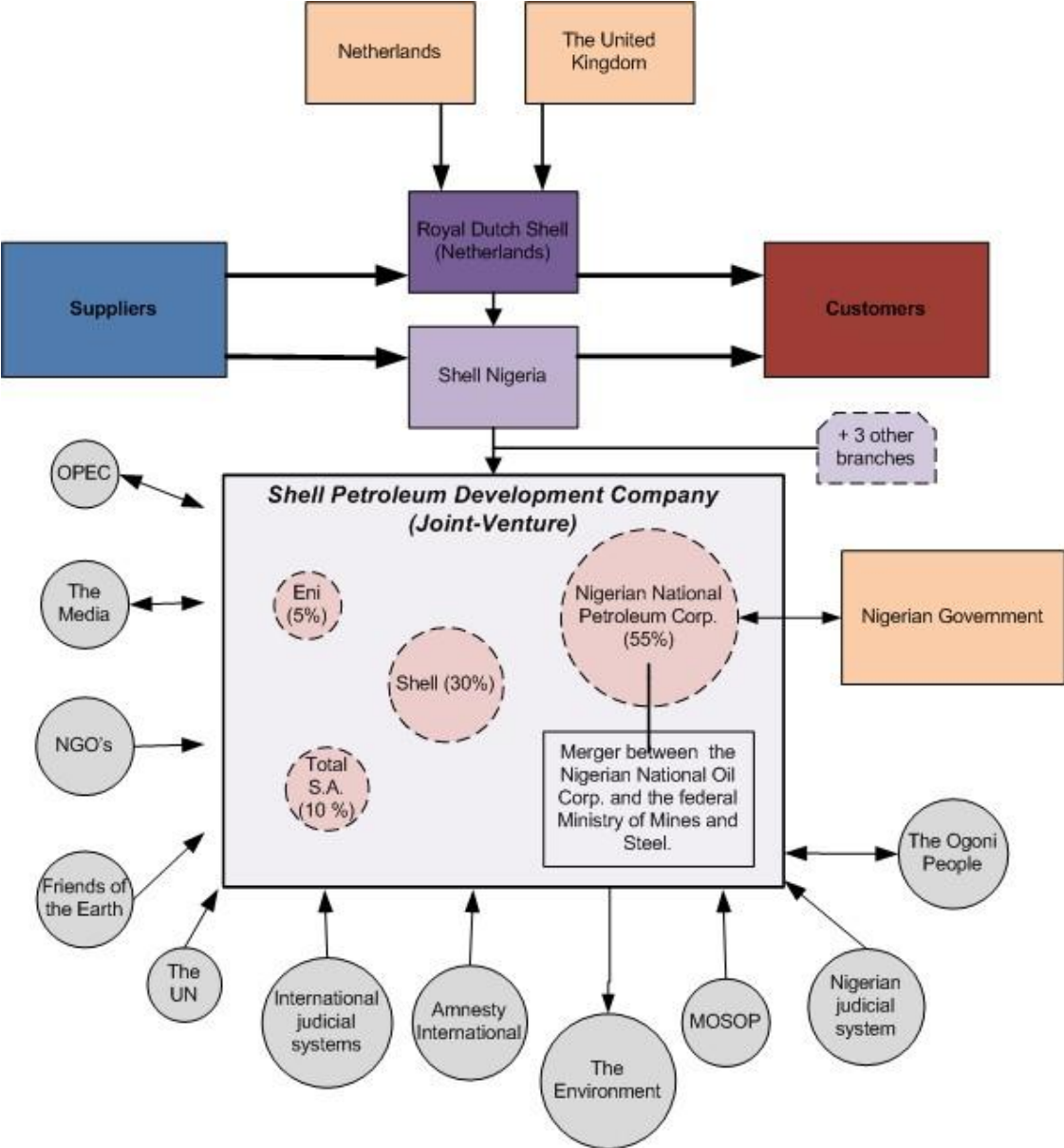


Figure 3: The value chain of Shell.

## The reality in Nigeria

Ever since Shell started production of oil in Nigeria in 1958 the company has faced difficulties and challenges both with the local government and with outside stakeholders around the world. The list includes allegations of human rights violations, supporting a military regime, involvement in the execution activists, oil spills and environmental damage. Some claims are proven, while others are not. One the most known case is the execution of Ken Saro-Wiwa and eight other Ogoni tribe leaders in 1995. Ken Saro-Wiwa was a Nigerian writer and activist, but also the president of the Movement for Survival of Ogoni People (MOSOP). The Movement for Survival of Ogoni People is an Ogoni-based non-governmental, non-political apex organization of the Ogoni ethnic minority people of South-Eastern Nigeria and was founded in 1990 with the mandate to campaign non-violently to: promote democratic awareness; protect the environment of the Ogoni People; seek social, economic and physical development for the region; protect the cultural rights and practices of the Ogoni people; and seek appropriate rights of self-determination for the Ogoni people (MOSOP, 2014). Not long after the execution a lawsuit against Shell was put forward by Ken Saro-Wiwa's family and the families of the other eight tribe leaders. They claimed Shell was involved in the execution of the tribe leaders. According to the plaintiffs' lawyer, Jennie Green, evidence included, "*...records showing that Shell Petroleum had paid and equipped the Nigerian army units that brutalized the Ogoni community, and testimony that its managing director offered to intercede against the execution if Saro-Wiwa withdrew his charges of environmental abuse—a deal Saro-Wiwa rejected*" (Chavkin, 2010, p. 22). On June 8, 2009, the case was settled, resulting in 15.5 million settlement payment from Shell to a trust fund set up by Shell to benefit the Ogoni people, to the plaintiffs, and the estates they represent in recognition of the tragic turn of events in Ogoni land (Shell, 2009). Shell, on their website, claims their innocence in the connection to the case in the words of Malcolm Brinded (Executive Director Exploration & Production): "*Shell has always maintained the allegations were false. While we were prepared to go to court to clear our name, we believe the right way forward is to focus on the future for Ogoni people, which is important for peace and stability in the region. This gesture also acknowledges that, even though Shell had no part in the violence that took place, the plaintiffs and others have suffered.*" (Shell, 2009)

*Environmental issues*

The most recent challenge Shell has faced in Nigeria are related to oil spills and environmental damage. I will focus on the environmental issues surrounding the Niger Delta, where NGO’s as Amnesty International and Friends of the Earth long have claimed that Shell have not been completely honest about the disclosure regarding the scale of oil spills and environmental damage. In their report “Bad Information: Oil Spill Investigations in the Niger Delta”, Amnesty International presents evidence that shows “*serious and systematic flaws in the oil spill investigation process, but also specific examples of instances where the cause of an oil spill appears to have been wrongly attributed to sabotage*” (Amnesty International, 2013, p. 5). When an oil spill is recorded, the compensation paid to the affected community is determined by the amount of oil spilled and the cause of the spill. This means that when the multinational oil companies do not investigate and report properly the compensation for the affected communities is absent and impacts the human rights of the involved population (Amnesty International, 2013).

Sources of information	Number of oil spills from Shell facilities per year, from different sources					
	2007	2008	2009	2010	2011	2012
Royal Dutch Shell Sustainability reports	249	157	132	144	182	173
Statistics on Shell’s Nigeria web pages*	320	210	190	170	207	192
NOSDRA	171	95	118	188	207	207

Table 1: Number of oil spills from Shell’s facilities. 7

In their report, Amnesty International (2013) presents some of Shell’s reported numbers of oil spills in Nigeria. The numbers do not correspond with the data presented by the National Oil Spill Detection and Response Agency (NOSDRA) and reflects the problem of unreliable data. In 2013 (Jan-Sep), Shell reported 138 oil spills with a total volume of 16,000 barrels, but the report notes that volume reports from Nigeria are highly unreliable (Amnesty International, 2013).

<sup>7</sup> Amnesty International, 2013, p. 11

Attempts have been made to estimate the total scale of oil spills in Nigeria ever since oil production started in the 1950s. The numbers vary, but as much as over 10,000 spills, approximately 9 to 13 million barrels of oil have been spilt over the last 50 years (Amnesty International, 2013). This huge amount of oil spills has had a massive impact on the local communities, and none more than the Ogoniland area. In the report Amnesty International has included a statement from 2001, by the African Commission on Human and Peoples' Rights: *"pollution and environmental degradation to a level humanly unacceptable has made living in Ogoni land a nightmare."* (African Commission on Human and Peoples' Rights, 2001, in Amnesty International, 2013, p. 12) A United Nations Environment Program (UNEP) report states: *"The environmental restoration of Ogoniland could prove to be the world's most wide-ranging and long term oil clean-up exercise ever undertaken,"* (Eboh & Onuah, 2011). It is not just the MNO's that can be blamed for the reality, Nigeria has also been found to violate rights that are guaranteed under the African Charter on Human and Peoples' Rights, and the commission stated that: *"[D]espite its obligation to protect persons against interferences in the enjoyment of their rights, the Government of Nigeria facilitated the destruction of the Ogoniland. Contrary to its Charter obligations and despite such internationally established principles, the Nigerian Government has given the green light to private actors, and the oil Companies in particular, to devastatingly affect the well-being of the Ogonis."* (African Commission on Human and Peoples' Rights, 2001, in Amnesty International, 2013, p. 12) Recognizing the link between the destruction of the environment and human rights is crucial in order to work towards mitigating the effects of oil production in Nigeria and the Niger Delta. The African Commission put pressure on the Nigerian government to provide both compensation and proper clean-up activities for the people living in the Niger Delta, in particular the Ogoniland. No such commitment has been carried out. People of the Niger Delta are forced to live with polluted water, unable to provide fish from the rivers, and the air reeks of oil, gas and other pollutants. Complaints about breathing disorders and skin problems have been reported, but their concerns are not heard (Amnesty International, 2013). *"The abuses and violations are, primarily, the result of the operations of the oil companies and the almost complete failure of the Nigerian government to regulate the oil industry and protect the rights of the people of the Niger Delta."* (Amnesty International, 2013, p. 13)

The reality in Nigeria is severe, both in respect of the environment as well as the human rights. It is clear that not enough is being done to overcome the challenges and there are many participants that hold responsibility in solving the problems.

## H&M in Cambodia

### Hennes & Mauritz AB

Hennes & Mauritz AB started out with a single womenswear store in Västerås, Sweden in 1947. After the founder Erling Persson bought the hunting and fishing equipment store Mauritz Widforss in 1968, the company changed its name to Hennes & Mauritz (H&M, 2014a). Over the years they have opened stores all over the world and are now represented in over 54 markets. The H&M group also owns five other independent brands: COS, Monki, Weekday, Cheap Monday and & Other Stories (H&M, 2014b). They employ over 116,000 people and have approximately 3,200 stores worldwide (H&M, 2014b). The company reported revenue of SEK 150,090 million or approximately \$ 23 billion in 2013 (H&M, 2014c).

### Cambodia

The Kingdom of Cambodia, formerly Kampuchea, is a Southeast Asian nation that borders Thailand, Laos, Vietnam, and the Gulf of Thailand. It has a population of approximately 15 million (CIA, 2014b). Cambodia was ruled as a vassal between its neighbors until it was colonized (protectorate) by the French in the mid-19th century, until the country gained independence from the French in 1953 (CIA, 2014b). During the regime of Pol Pot and the Khmer Rouge, from 1975 to 1979, at least 1, 5 million Cambodians were killed (CIA, 2014b). In 1993 the monarchy was reinstated and Cambodia is today ruled by King Norodom Sihamoni. Cambodian economy has seen an increase in the last decade. Cambodia's needs of development have shifted from survival mode to a medium term strategic framework for rapid adjustment and growth supported by sound macro and sectorial policies, and complementary public investment and technical assistance programs (Tourism of Cambodia, 2014). The population lacks education and productive skills, particularly in the poverty-ridden countryside, which suffers from an almost total lack of basic infrastructure. Tourism and textile are the two largest industries in Cambodia, but most of the labor force is working in agriculture. Cambodia is ranked 160 out of 177 countries in the Transparency International's Corruption Perceptions Index (CPI) 2013 (Transparency International, 2014a), which makes one of the world's most corrupt countries. In Transparency International's Global Corruption Barometer (GCB) 2013 Cambodians rank the judiciary, the police, and political parties as the most corrupt institutions in Cambodia (Transparency International, 2014c). Over 60 % said they have paid bribes to both the judiciary and the police among others, which indicate that

paying bribes is part of the everyday life for Cambodian citizens. Cambodia is ranked at 138 of 186 in the Human Development Index trends for 2012 (UNDP, 2014).

### **H&M's value chain**

The value chain of H&M is presented below and it depicts the up- and downstream operations of their value network. From the garment workers in the Cambodian factory to the end customer in Norway we can see that the value chain is influenced by different stakeholders. Throughout the value chain there is an unequal distribution of costs and rewards. At one end the Cambodian garment worker do not get a fair living wage and is struggling for survival, while at the other end consumers in Norway are able to buy “cheap” quality clothes. In the middle the Norwegian government collects taxes, H&M collects their profit, and the remaining parties take their share.

There are also many different outside stakeholders that influence the value chain. The labor unions fight for an increased minimum wage level in Cambodia, putting pressure on the government and the factories by striking and protesting. The NGO's work to ensure the labor rights and health and safety regulations are followed. Finally, the media influence the participants by highlighting both the good and the bad things that might occur.

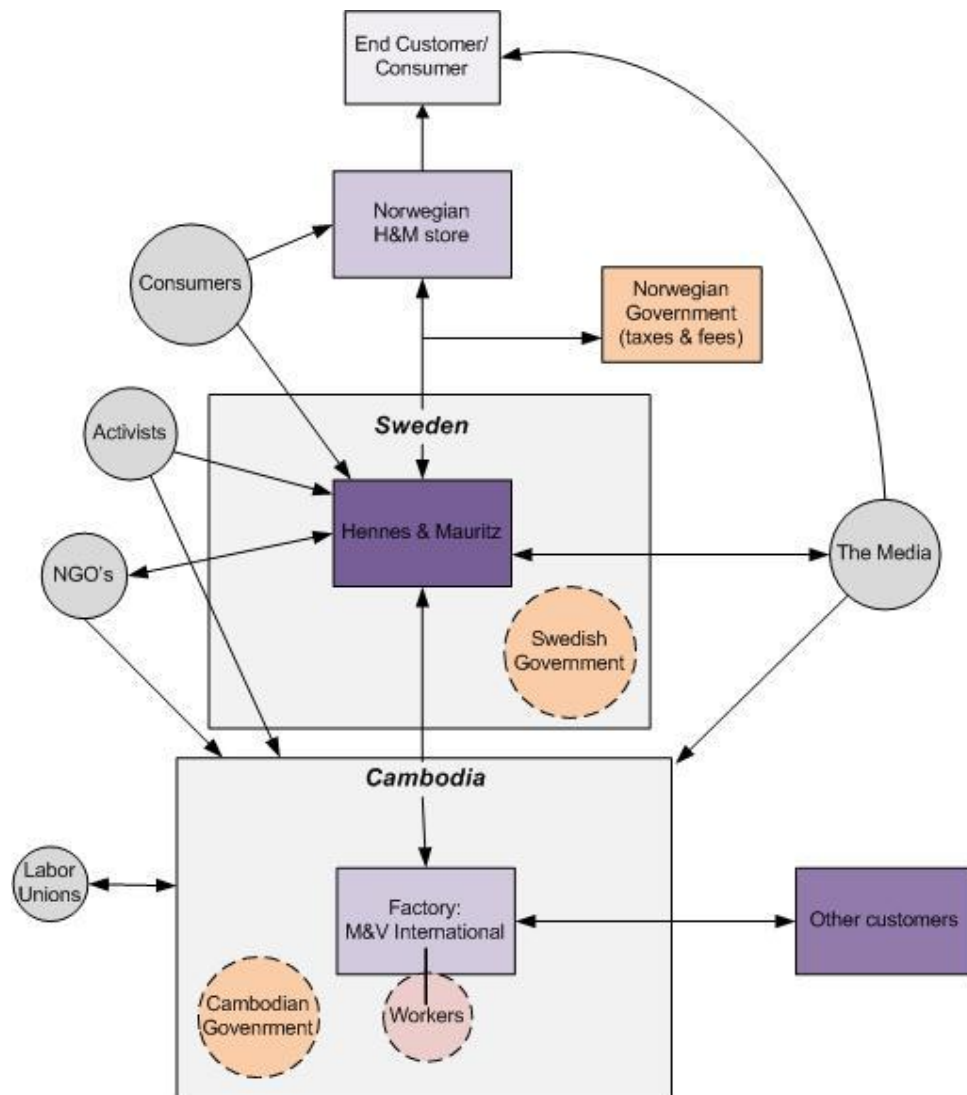


Figure 4: The value chain of H&M.

### The reality in Cambodia

In October 2012, an episode of the Swedish investigating TV show “Kalla Fakta” (Cold Facts)<sup>8</sup> aired on the Swedish TV channel TV4, which revealed poor working conditions for Cambodian garment workers at a factory used by H&M. The episode showed how the Cambodian garment workers struggle to survive on the wages they were given. Because of long working hours, plus overtime, workers were fainting from exhaustion. At M&V International, which is the supplier used by H&M, as many as 250 workers fainted within two days in 2011. Some may work up to 70 hours a week, at a daily salary of US\$ 0.45 a day or 3 NOK. Their monthly wages is US\$ 70 (2011 level) or approximately 450 NOK. Comparatively, a normal workweek for a Norwegian is averaging at 37, 5 hours, with a

<sup>8</sup> Kalla fakta del 2 - Drömmen om levnadslön, 2012



monthly wage averaging at US\$ 6500 or 41 000 NOK for 2013<sup>9</sup>. The minimum wage level in Cambodia is set by the government and represents about 25 percent of a livable wage. Many workers have been forced to take out loans in order to put food on the table since most of their salary goes to paying down the debt. Strikes and protests are occurring at frequent rate, and the labor unions are expressing their discontent. A strike broke out when the “Kalla Fakta” crew was about to visit the M&V International factory.

Both strikes and riots have characterized the recent past in Cambodia, the fight for livable wages had a fatal outcome when at least three people were killed by the military police after hundreds of protesters blocked a street at Canadia Industrial Park in Phnom Penh, January 3, 2014 (Dara & Doyle, 2014). The striking garment workers were demanding a doubling of the minimum wage, which currently lies at US\$ 80 (2013 level). The Cambodian Ministry of Labor proposes an increase of US\$ 20, making the monthly minimum wage at US\$ 100. In the aftermath of the violence several international apparel makers have called on Cambodia’s government, the garment industry, and the labor unions to initiate talks in order to reach an agreement. H&M have announced that they will launch a program to boost wages for garment worker in its sub-contractor factories around the world, including Cambodia (Carmichael, 2013). The Fair Living Wage roadmap is based on the Fair Wage Network’s methodology and in close consultation with a variety of stakeholders on H&M’s wage advisory board (H&M, 2014d).

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<sup>9</sup> SSB, 2014

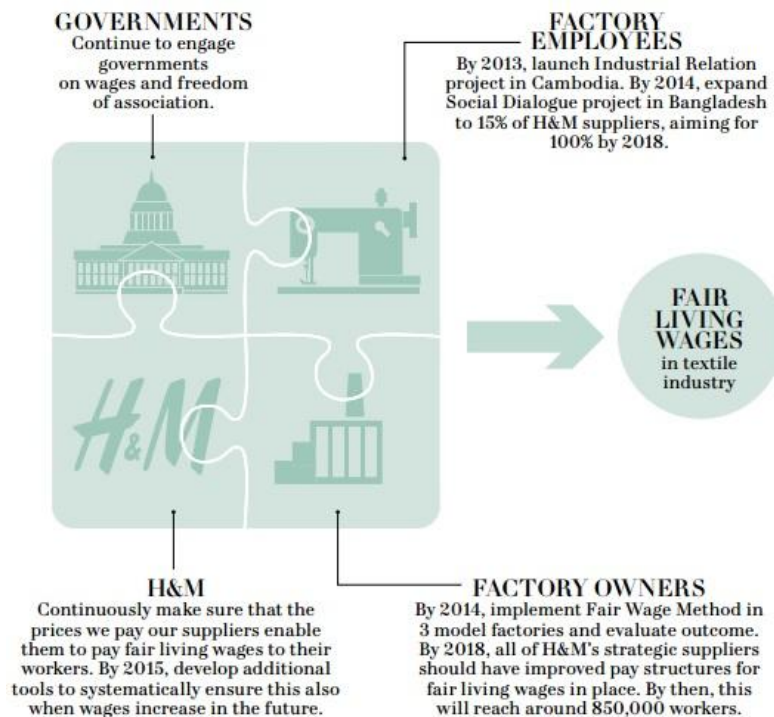


Figure 5: The Fair Living Wage Roadmap. 10

The roadmap aims to provide living wages for all garment workers, not just for those who work for the sub-suppliers of H&M. H&M acknowledges that this process cannot be achieved by one company, and relies on actors from the whole industry to partake. Jason Judd, a technical specialist at the International Labor Organization, the United Nations' labor body, says *“It's inevitable that if the H&M program works as it's described, then other brands are going to feel the pressure because they're in many of the same factories. Also, government is going to feel the same pressure because the government is ultimately in charge of this wage-setting exercise and they're in the middle of one right now,”* (Carmichael, 2013).

I have now presented both cases, including a brief introduction of both companies and countries, and the reality the companies face when operating in these developing countries. I have also presented an illustration of both companies' value chains in order to show the stakeholders and some of the responsible participants. This section will form the basis of the discussion that follows.

<sup>10</sup> H&M, 2014d, p. 32

## Analysis and Discussions

I will start this section by looking at the institutions of Cambodia and Nigeria. Through a brief analysis and discussion based on the perspective of justice I will determine whether they can be deemed adequate or inadequate. Both countries and its conditions have previously been presented and will make up the background information for the analysis. I will continue the discussion by determine the extent of responsibility the companies, including some selected participants, hold towards the reality. Finally I will use the ethical guidelines to determine whether the behavior and actions of the companies indeed are ethical.

### Institutions

#### Nigeria

Corruption is the number one reason why institutions in developing countries are unable to perform their intended task. As Africa's largest economy Nigeria should be able to provide its citizens with institutions that ensure their basic needs as safety, health, education, nutrition, and labor. Their vast resources have paralyzed the country and made it unable to properly distribute the revenues deriving from the oil industry. The World Bank has estimated that about 80 % of the oil revenues only benefit 1 % of the population (Odularo, 2008). This is a direct result of corruption, which in turn have set its foothold through years of political instability. The first principle of the GOOD and just institutions states that an institution should provide "survival" for the people it concerns. There are many examples of where Nigerian mezzo institutions violate the first principle. The environmental destruction surrounding the people living in the Niger Delta makes it difficult for them to lead flourishing lives according to the first principle. Many rivers are contaminated with oil making both fishing and providing fresh drinking water a challenge. Unable to ensure good health, provide healthy nutrition, basic requirements for survival are denied the people living in the Niger Delta. The responsibility of providing these opportunities lies with the Nigerian mezzo institutions. They should provide proper clean up, better control measures, and proper compensations for livelihoods destroyed because of oil.

The first principle also includes hand-over. Each generation should hand over an improved state from one generation to the next. The Nigerian institutions are short-sighted in their decision making process which often lead to corrupt practices. According to the Transparency International GCB 84 % of the Nigerian public feels that corruption has increased over the last two years, which means that the efforts made to battle corruption has not been sufficient.

Both corruption and environmental damages have made it impossible to hand over an improved state to the next generation.

Corruption is not only found in the mezzo institutions, but also in the micro institutions represented by the local communities and culture. Over the years many local communities have viewed the big oil companies as an easy way of getting money, in terms of compensation. This has led to corruption of local chiefs. There have been examples of communities carrying out sabotage on oil pipelines in order to receive compensation from the companies. This may offer some explanation as to why the government and companies' process of investigating oil spills tends to wrongly attribute the cause of oil spills to sabotage and theft.

The Nigerian institutions also violate the third principle of maxi-min distribution of index goods. The vast oil revenues of the country do not benefit the whole population. The country is the 26<sup>th</sup> largest economy in the world, yet it has one of the world's lowest human development indicators. Again, this is a result of the in depth corruption that characterize the country. The country also suffers from a high level of inequality between genders. Women are at a disadvantage when it comes to access of education and employment, agricultural wage and access to land, among other things (UNDP, 2009). This also violates the second principle of equal moral standing. No one should be denied the most extensive of all equal basic liberties based on gender. Unfortunately this is the reality for many Nigerians.

Through this brief analysis and short examples I have showed how corruption and greed are making the Nigerian institutions inadequate to perform their tasks, and as a result depriving millions of people of their basic rights. The institutions are unable to promote the GOOD and flourishing lives for their people and can therefore be deemed as inadequate and unjust. There are still more aspects regarding the Nigerian institutions that may have been appropriate to include in this analysis, but I have decided to keep it short and only highlight the most important issues. I will continue with the Cambodian institutions.

## **Cambodia**

Cambodia is one of the world's most corrupt countries, and as a result its institutions are not able to provide survival for its people according to the first principle of the GOOD and just institutions. Many Cambodian garment workers do not receive livable wages which denies the opportunity to lead flourishing lives. With not enough money to buy healthy, nutritious food, the diet of many Cambodians is poor. This will in turn lead to an impaired health. This does not promote human flourishing and by not increasing the minimum wage level the Cambodian institutions are violating the first principle of survival. The institutions are not able to ensure handing over an improved state from one generation to the next. Corruption is a huge problem and the fact that the country fell from 157<sup>th</sup> place (2012) to 160<sup>th</sup> (2013) on the Corruption Perceptions Index, indicates that the problem is persistent and measures to mitigate the effects have been unsuccessful.

Cambodian institutions are not able to ensure an equal distribution of index goods. This is exemplified through the struggle for living wages and the poverty that characterize the country. Both human and labor rights are violated in factories where employees work until they pass out. Most of the country's wealth goes to a small elite of politicians and decision makers, which often is the case with corrupt countries. Through these examples I have showed to which extent the Cambodian institutions are inadequate to perform their intended functions. They violate the principles of just institutions and do not promote the GOOD and flourishing lives for the people. I can therefore conclude that Cambodian institutions are inadequate.

I have now established that both the Nigerian and the Cambodian institutions are inadequate in promoting the GOOD and flourishing lives. Before discussing the responsibility and power of the companies and value chain participants, I will look at what response options the companies faced with, dealing with inadequate institutions. It is important to clarify these options because they can be helpful when we look at how the companies acted and possibly how they should have acted in a specific situation.

## **Response options**

Falkenberg & Falkenberg (2007) have presented a table which displays different alternatives of responses available under adequate and inadequate institutions. The table can be used to determine what choice of action Shell and H&M could take when they face problems due to the inadequate institutions in Nigeria or Cambodia.

		Formal institutions (laws and regulations)		Informal institutions (cultural norms and values)	
		Adequate	Inadequate	Adequate	Inadequate
Act	Follow institutions	Go ahead	Immoral voice or exit	Go ahead	Immoral voice or exit
	Go against institutions	Illegal	Consider benign civil disobedience	Immoral	Consider behavior "over and above the call of duty"

In Cambodia, the minimum wages set by the government are unable to ensure survival for the garment workers, but initiatives such as the Fair Living Wage Roadmap that suggests that H&M along with other big actors in the garment industry should pay more to the factories in order for the wages to increase. This is an example of where H&M have gone against the Cambodian institutions and are acting over and above the call of duty.

Even though a more controversial case, where the course of events can be questioned, Shell went over and above the call of duty when setting up the trust fund to benefit the Ogoni people for the struggles they have faced. Put the questionable factors aside, the company was not obligated to set up this fund, but if they did not it would have been perceived as immoral behavior.

Both in Cambodia and Nigeria are countries where anticorruption laws are stated in the law. But we know that this is not case and both companies face challenges when dealing with these surroundings. They have the option to voice or exit, or they could choose benign civil disobedience and choose to be transparent about their operations, and reject taking any part in corrupt transactions. Finally, we can mention the poor working conditions for the Cambodian garment workers are an example where both the formal and informal institutions view the poor conditions as "normal", and H&M are not obligated to act. But these conditions do not promote flourishing for the employees and it is a good chance of bad publicity from outside stakeholders. Since the company is responsible (able to respond) it should go over and above the call of duty to try to better the situation.

These problems are a result of the inadequate institutions and they have a significant impact on the exchanges in the value chain of the two companies.

## Responsibility and Power

When conducting business in a developing country MNO's must be aware of the fact they may be held accountable for their operations and actions by society as a whole. As major actors in their respective industries both Shell and H&M have responsibilities toward its shareholders, as well as the outside stakeholders. The role of the outside stakeholder and its influence on organizations has received a lot of attention the past decades, a fact well known to the organizations. But one cannot always blame the organizations for the wrongdoings that occur in relation to their operations. So where do we draw the line of responsibility between the MNO and the country in which it operates? Theory states that an MNO holds responsibility if they are response-able or response-capable, their ability to respond to a problem. When large MNO's operate in different countries around the world they often constitute much of the economic foundation in these countries, which in turn creates a dependency. This dependency often leads to the MNO's gaining a substantial amount of power. Power is defined as the ability to direct or influence the behavior of others or the course of events, and the amount of power can indicate the amount of responsibility an MNO towards the other parties in their value chain.

Before we discuss the cases in relation to the ethical principles and recommendations it is important to determine the extent of the companies' responsibility.

### Shell

The biggest challenges Shell have faced in Nigeria that I have chosen to highlight is the case of Ken-Saro Wiwa and the different human rights issues related to the environmental problems caused by to their operations. So how do we determine to what extent Shell is responsible or not? As stated above you may be responsible if you are respond-able or response-capable (your ability to respond to a problem).

In 1995, at the time of the execution of Ken Saro-Wiwa and the eight other tribal leaders, Nigeria was a military regime characterized by violence and corruption. Operating under such circumstances would present difficulties for any company. This case also presents a lot of grey areas, with many aspects to potentially highlight. We know that there is no evidence that ties Shell to the trial procedures against Ken-Saro Wiwa, a fact Shell highlights on their website: *"The charges were unrelated to his criticism of Shell, which had no involvement in case. No member of Shell staff was on trial, none was called as a witness, and neither Shell nor SPDC was mentioned in any of the charges."* (Shell Nigeria, 2014b) There is no point in discussing this in detail, but an interesting observation worth mentioning is when faced with

the threat of exposing evidence that showed how the company had paid and equipped the Nigerian military the company chose to settle the suit against them in 2009. This may be an indication of complicity in the case and shows that Shell had the ability to respond to the problem, even though they might have responded in self-interest. It has also been reported that Shell presented an offer to Ken-Saro Wiwa that they would intervene and stop the execution if Wiwa dropped his fight against Shell (Chavkin, 2010). Ken-Saro Wiwa refused this offer. As one of the biggest actors in the Nigerian oil industry Shell has over the years gained a substantial amount of power, a fact well supported by their offer to Ken-Saro Wiwa. In retrospect, this type of power implies that Shell had the ability to respond and should be considered benign civil disobedience and maybe gone against the Nigerian government to save the life of Ken-Saro Wiwa and the eight Ogoni tribe leaders.

In Nigeria, oil spills occur for several different reasons; some may result from equipment failure due to decay, others from sabotage, and some from theft. By virtue of their role Shell is responsible for its operations in the country and responsible to make sure that their equipment meets the basic requirements. They are therefore responsible for any oil spills caused by malfunctioning equipments and spills related to the company's inability to properly maintain their equipment. Even though sabotage and theft are events that one cannot protect itself against one hundred percent, Shell still holds responsibility in cleaning up the oil. Shell is responsible by virtue of their role, as a father is responsible for his children. Being one of Nigeria's biggest oil actors, responsible for thousands of miles of oil pipelines, makes Shell responsible for oil spills stemming from their own equipment, no matter the cause.

### *Responsible participants*

But Shell is not alone in creating the reality in the Nigerian oil industry. There are many participants throughout the value chain which hold responsibility. Through the SPDC joint venture the Nigerian National Petroleum Corp. (NNPC) holds the controlling interests of 55 %, which in turn is connected to the Nigerian government. As with Shell, the NNPC are equally responsible for their operations and the impact these might have. With connections to the Nigerian government the NNPC is a powerful participant that can pose as a challenge for Shell, in terms of conflicting views on for example clean up procedures or compensations. If we move further up the value chain the Nigerian government is responsible for ensuring that the foreign organizations operating in the country follow the rules and regulations of the country, and responsibly handling any problems they might cause. But with inadequate institutions the enforcement of these tasks are in default. Even though there is a governmental



investigation unit working with the companies to establish the cause of an oil spill and the size of the compensation, there have been indications that the ties between government and company has made the investigation process unreliable, and oil spills have been downsized or blamed on other causes in order to avoid responsibility.

The governments of the United Kingdom and the Netherlands should actively promote that businesses from the countries should follow a strict ethical code of conduct. They have no legislative power over the company, and cannot punish them for violations conducted in another country, but they can implement national measures for improving ethical conduct in foreign countries.

Finally, it is important to highlight that the local Nigerian communities represented by their chiefs. As many communities view MNO's, such as Shell, as a way of receiving money in terms of compensation for environmental damage, livelihood destroyed, etc. There have been cases where sabotage has been carried out by the local community in order to create oil spills to receive compensation as a means of income. This is another factor that makes the reality even more complex and difficult to solve.

### **Hennes & Mauritz**

The main challenges faced by H&M in Cambodia are the case of the poor factory conditions (fainting workers) and the struggle for fair living wages. To determine the responsibility H&M holds toward this reality we must see to which extent the company were able to respond to the problems. The poor working conditions at the M&V International factory should have been discovered long before it was presented on a TV-show. It is clear that the company's routines regarding supplier control were not good enough. As one of the world's biggest retail corporations, H&M has a responsibility towards its stakeholders in their value chain network. The company had the ability to respond to the problem and is therefore responsible. H&M should have had proper control measures in place so that they could have dealt with this situation sooner. But it is important to highlight that working conditions in many factories all over South East Asia are terrible, and this includes Cambodia. It is often difficult for the customers (MNO's) to control and discover the poor working conditions because many factories will create a pretty picture when foreign inspectors visit the factories. It is not possible for H&M to remove this problem, but there are options to face the problem. They could have dropped the factory as a supplier. But this is not the most responsible choice, because it would only have resulted in continuation of the problem. A better option would be

to use their power to pressure the management to comply with improvements of the factory conditions. Power is the ability to change or influence the behavior of others or the course of events and H&M has significant power in the garment industry in Cambodia.

Knowingly operating in a country where workers are not paid fair living wages makes H&M obligated to ensure that the rights of the Cambodian garment worker is upheld. H&M should use their power to influence both factory owners and the government to raise the minimum wage level. The company's introduction of the Fair Living Wage roadmap underpins H&M's recognition of their responsibility towards the Cambodian garment workers. Even though H&M and other companies hold responsibility for the conditions in the Cambodian garment industry, it is not expected that the companies should take the whole bill of providing fair living wages for the workers. But it is expected that they towards providing it, using their power and influence. Programs like the Fair Living Wage roadmap is also a result of the influence the outside stakeholders have towards the MNO's.

There is also important to mention other value chain participants that also are responsible for the reality.

### *Responsible participants*

The M&V factory do not produces clothes exclusively for H&M and have other customers. These customers hold equal responsibility in terms of their ability to respond to the problems of poor working conditions and fair living wages.

The M&V factory management/owners is responsible for their own operations and are the ones that hold most of the responsibility when it comes to providing good working conditions for their employees. The factory owners are blaming the poor working conditions on economic reasons; lack of money, high costs, or high performance pressure. As long as the demands from the government and their customers are maintained at the same level, the conditions will remain the same. So if the wages are to increase without the support of the government or the government, the consequences will be a general decrease of quality.

The Cambodian government is responsible for the insurance of the workers' rights and wage levels in the country. But as analyzed above, the Cambodian institutions are inadequate and do not provide the maintenance of these rights as they should, which creates a vicious circle that denies people basic rights and in turn inhibits Cambodia as a country the chance to develop.

There are many value chain participants and stakeholders that hold responsibility toward the reality in Cambodia. It is a problematic situation that stretches throughout the whole value chain. And in order for these problems to be solved all of the value chain participants must be willing to change. All the way from the Norwegian government and consumers, to the Cambodian factory owners, the value chain change. Initiatives like the Fair Living Wage roadmap are the start of many necessary steps to achieve equal distribution of costs and rewards throughout the value chains.

### **The fundamental and applicable principles**

I have now discussed the responsibility the companies hold towards the reality, and highlighted other responsible participants in the value chains. I will continue to discuss the cases in relation to the fundamental and applicable principles. I will first go through the fundamental principles and see any are violated, and then I will do the same with the applicable principles. The reason for doing this is to see where the companies have acted unethically, and where they have not. Based on that I can draw some loose conclusions and come up with some recommendations towards how companies can respond to different problems when operating in development countries with inadequate institutions.

### **Shell**

Shell's operations in Nigeria have violated the fundamental principle of survival and hand-over. When oil spills out into the environment (rivers, forests, etc) it has a devastating effect on the livelihood of the people living in the area. As I discussed above Shell is, being the largest actor in Nigeria's oil industry, responsible for any oil spills coming from any one of their facilities no matter the cause. Many Nigerians living in the Niger Delta are in poor health because of the pollution of the air and ground water. There is a shortage of food because much the fish living in the rivers have died. The area is not being handed over to the next generation in an improved state. Shell has an obligation toward its stakeholders to ensure that both health and safety of those surrounding its operations. But even though Shell has violated the principle of survival and holds responsibility, it does not mean that they should solve the situation alone. It is a complex reality and every responsible party should partake in the solution. For Shell's part this will include better control measures regarding aging equipment and security against sabotage and theft. Better cleanup procedures are also necessary in order to mitigating the effects of oil spills.

The case of Ken-Saro Wiwa violates that the fundamental principle of equal moral standing. There has been some uncertainty in regards to Shell's involvement in the case, and since no conclusive evidence exists, I will try not to speculate on the truth. But as a responsible participant operating in Nigeria, and the alleged connection to the case, I would say Shell is involved in violating the principle. If we look back to the different response options an MNO have when faced with inadequate institutions in developing countries presented above, we might argue that Shell should have acted differently. The company might have gone against the local institutions and considered benign civil disobedience by trying to save the lives of the imprisoned Ogoni leaders. We might say Shell's passive behavior borders on what is considered immoral, ethically speaking. The military regime that governed Nigeria at the time denied Ken-Saro Wiwa equality before the law, equal opportunities, and freedom of speech. He was imprisoned because he spoke up against inequality and the destruction of the land of his people.

There is an unequal distribution of costs and rewards throughout Shell's value chain, which violates the fundamental principle of maxi-min. This is mainly related to the connection between the Nigerian government and the SPDC joint venture. As illustrated above the Nigerian government is connected to the SPDC through the NNPC which owns 55 % of the joint venture. The NNPC is a corrupt participant and is currently under investigation for embezzlement. The result of this behavior is that the country, along with its citizens, does not reap the benefits of what should have been a beneficial cooperating with Shell. Corruption within the value chain is a problem that should have been addressed by Shell a long time ago, but it is allowed to continue. The violation of the principle is not deemed as ethical behavior and Shell should develop sufficient measures to mitigate the effects of this problem.

Moving towards the more applicable principles we can see that the case violates several of the principles. If we take a look at the principles regarding human rights we can see that in both the Ken-Saro Wiwa case and the cases regarding oil spills Shell has contributed to the violation of human rights. We can highlight the ISO 26000 7<sup>th</sup> principle, third point, which states; *"In situations where human rights are not protected, take steps to respect human rights and avoid taking advantage of these situations"*. Did Shell take advantage of the imprisonment and execution of Ken-Saro Wiwa? In retrospect, I would not say so, considering the settlement signed in 2009. But in 1995 the company may have had an advantageous point of view that led to their choice of action. Shell should proceed to follow

the OECD Guidelines, policy 11, in order to develop proper control measures and cooperation to avoid future problems regarding human rights violations.

The OECD Guidelines' policy 22 deals with maintenance of “...contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations...” Despite the cases of sabotage and theft on Shell's pipelines, the amount of oil spills the company has experienced in Nigeria makes it clear that their efforts to mitigate and control the problem are inadequate. The ISO 26000 1<sup>st</sup> principle states that “An organization should be accountable for its impact on society and the environment” and I would say that the company have not acted accountably toward the environmental issues in the Niger Delta, and has violated this principle. The Caux Round Table 6<sup>th</sup> principle address the importance of having proper environmental management practices “consistent with meeting the needs of today without compromising the needs of future generations”, which is also coincides with the fundamental principle survival and hand-over.

I have now related the cases to both the fundamental and applicable principles. I have highlighted which principles that were violated and explained the reason. I will continue to do the same with H&M before moving on with the conclusions and recommendations.

### **Hennes & Mauritz**

Through their choice of suppliers in Cambodia H&M has become complicit in violating the fundamental principle of survival. As mentioned above, many Cambodian garment workers are struggling to survive on the wages received. Many have to borrow money to buy enough food, but they are not able to provide nutritious food, because most of their wage goes to payment of the loan. It creates a viscous circle, which in turn affects the workers health and makes them unable to lead flourishing lives. H&M should implement better control measures for controlling their suppliers. I acknowledge that the reality in the garment industry is complex and that the conditions presented in this case are not unique. A company operating in the garment industry cannot protect itself one hundred percent from cases like this.

The fundamental principle of maxi-min is violated. There is an unequal distribution of costs and rewards running through the whole of H&M's value chain. The problem is not unique for H&M. The whole garment industry is characterized by unequal value chains. There are many factors that need to be considered in order to fully understand the complex situation. At the factory level the management/owners takes as much as they can between what they pay their workers and hard economic demands from the customers. The employees are paid minimum

wage according to the law. But as discussed above this is not enough to live on. The government is corrupt and the institutions are inadequate, which disables their ability to ensure the rights of the garment workers. This is one of the main reasons for the inequalities we see in Cambodia, both in the industry and the value chains.

In the middle of the value chain we find H&M. Like all businesses, H&M have a commitment towards their shareholders to make a profit. They are therefore dependent on low production costs. With increased demands from the consumers for cheaper clothes, the company must find the cheapest supplier. The cheaper the supplier, the more likely it is that issues regarding labor or human rights will occur. Another issue regarding MNO's that has long been debated is top management compensation. Many believe that the compensations given to top management and CEO's are too big. Is it ethical of CEO's responsible for huge value chains taking huge compensations knowing that people are suffering? I would say no. It is just another factor extending the problem. If the compensations were to be reduced it could be part of many necessary steps creating a more balanced distribution along the value chain.

The next link in the value chain is the importing countries. In this case I will use Norway as the example. The Norwegian government is probably one of the biggest collectors out of all the value chain participants. With a VAT level of 25 %, including other duties and taxes on retail and import, the Norwegian government collects a huge piece of the products sales price, laying foundation of the Norwegian welfare state. So in turn, one might say that the Cambodian garment workers are ultimately contributing in funding the Norwegian welfare state. This is an interesting fact to ponder. On one side, with the influence of the media, we condemn the multinational retail corporations for what we deem as unethical behavior, but on the other, we demand low prices on clothes and the continuation of our welfare state. It all comes down to the fact that our own expectations, demands and views that must change, as much as the way the companies conduct their business in order to bring equality to the value chains. So, are we willing to pay a little bit more to increase the equality throughout the garment industry value chains? We should.

Moving forward to the applicable principles we can highlight the ISO 26000 2<sup>nd</sup> principle regarding transparency. The factory conditions presented on the "Kalla Fakta" episode did not reveal ground breaking conditions. It is widely known that many factories in South East Asia are burdened with poor working conditions. Be that as it may, H&M have violated principles of what is viewed as responsible corporate conduct. The company should have established sufficient control measures in order to discover such conditions at an earlier stage. They

should work to become more transparent about their operations in the future. After several revelations over the recent years, regarding such cases, many companies have started to disclose which factories they are using. This is an initiative to increase the transparency in throughout industry. With more transparent operations it is easier for shareholders and outside stakeholders to monitor the activities and operations of the companies they are connected to. It is probably important to mention that H&M did not intentionally use factory that did not provide favorable working conditions. This was probably a miss in their control routines.

It is important that the company respects the interests of its stakeholders and encourages cooperation, a principle which is stated in the ISO 26000 (4<sup>th</sup> principle), the Caux Round Table principles (1<sup>st</sup> principle), and the OECD Guidelines (5<sup>th</sup> policy). This leads us to the violation of the garment workers' rights. All of the applicable frameworks deal with human and labor rights, and emphasizes that MNO's should respect and uphold these rights. The OECD Guidelines, general policy number 15, first point, states that MNO's operating in developing countries should *"provide the best possible wages, benefits and conditions of work, within the framework of government policies."* We know that the conditions in the garment industry of Cambodia pose as a challenge for MNO's. It is difficult to control and ensure that laws and regulations are followed, and that factories provide good working conditions. Even though H&M are not able to change the laws and regulations of Cambodia directly, it is their obligation to put pressure on the government and the factories to provide the best opportunities for their workers. The second point of the 15<sup>th</sup> policy states that MNO's should, *"take adequate steps to ensure occupational health and safety in their operations"*. H&M must make sure that proper control measure is in place, and work towards better the conditions in their supplier factory. The company should also consider paying more in order to ensure a fair living wage for the Cambodian garment workers, since the government is unable to provide this. As the first point continues *"... these should be related to the economic position of the enterprise, but should be at least adequate to satisfy the basic needs of the workers and their families"*. The economic position of H&M suggests that the company has the opportunity to provide this. The company is currently working on measures to equalize the differences in the value chain, and the Roadmap to Fair Living Wages is one of these. When institutions fail to provide living wages, the companies must contribute in order to create a fair and balanced value chain. This will only work if all the participants in the industry are on board. H&M recognizes in this case the Caux Round Table's 3<sup>rd</sup> principle, and goes beyond the letter of the law in order to act responsible toward its stakeholders.

But before moving on to the conclusions and recommendations, I will ask one question: how bad is it really, the reality for the Cambodian garment worker? We know that the wages given at the moment are not fair livable wages. But what are the alternatives? If the alternative is to end up on street begging for money, then working at the factory for a minimum wage is surely the better option. It might also be that there is a very competitive labor market. Many people are living in poverty and are willing to work for some money, rather than nothing. The factories can then lower their wages to a minimum level, and having no problem dismissing anyone who is not happy with their wages, because there will always be someone who is willing to work for a salary higher than nothing. This is another factor that only extends the already extensive problem of inequalities in the garment industry. Cambodia is probably not the worst country in Asia in respect to this reality.

After relating the fundamental and applicable to the case we can that the H&M have both violated and followed the principles. The discussions have revealed that both companies are operating in complex and difficult realities, and the choice between making money and acting responsibly can often be challenging. Before moving on to the conclusions and recommendations I will sum up the discussions by presenting a table which sums up some of the most important statements in the ethical frameworks related to specific problems faced by the MNO's.



## Ethics related to problems faced by the MNO's

Statements in Ethics	Shell	H&M
<i>“An organization should be accountable for its impact on society and the environment” (ISO26000)</i>	Environmental issues related to oil spills in the Niger Delta	
<i>“Businesses should support and respect the protection of internationally proclaimed human rights, and make sure that they are not complicit in human rights abuses” (UN Global Compact)</i>	Human rights violations regarding the Ken-Saro Wiwa case (allegedly), and related to oil spills.	Poor working conditions in supplier factories and no fair living wage provided.
<i>“Businesses should work against corruption in all its forms, including extortion and bribery” (UN Global Compact)</i>	Inadequate institutions	Inadequate institutions
<i>“Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.” (OECD Guidelines)</i>	Human rights violations related to the oil spills in the Niger Delta	Poor working conditions in supplier factory and no fair living wage provided
<i>“When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. Take adequate steps to ensure occupational health and safety in their operations.” (OECD Guidelines)</i>		No fair living wage provided for the Cambodian garment workers, nor is the working conditions adequate.
<i>“Assess, and address in decision-making, the foreseeable environmental, health, and safety-related impacts associated with the processes, goods and services of the enterprise over their full life cycle with a view to avoiding or, when unavoidable, mitigating them.” (OECD Guidelines)</i>	Shell’s process of addressing the environmental issues has not been adequate.	
<i>“Build trust by going beyond the letter of the law” (Caux Round Table)</i>	Trust fund for the Ogoni people.	Fair Living Wage Roadmap.
<i>“Avoid illicit activities” (Caux Round Table)</i>	Inadequate institutions, important to not partake in such activities. Questionable involvement in the Ken-Saro Wiwa case.	Inadequate institutions, important to not partake in such activities.

## Conclusions & Recommendations

The purpose of this thesis was to look at some of the problems faced by MNO's operating in developing countries with inadequate institutions. By looking the value chains and its participants and stakeholders, I wanted to highlight the complex realities the MNO's are facing. The cases I chose to focus on were Shell in Nigeria and H&M in Cambodia.

After a brief introduction of the companies, the countries, and the cases, I analyzed the adequacy of the Nigerian and Cambodian institutions. Both institutions were deemed inadequate and do not promote the GOOD and flourishing lives. Companies that support or follow these institutions would be considered unethical.

But to what extent are the companies responsible for the realities presented? One can determine the responsibility of the companies by looking at their ability to respond to a problem. The Ken-Saro Wiwa case is good example of the difficulties is to assign responsibility when there exists huge grey areas. But Shell had response options and should have gone against the Nigerian institutions and considered benign civil disobedience by pressuring the government to put off the executions. Shell is a powerful actor in Nigeria and should have voiced their discontent. But as discussed, their alleged connection to the military regime makes the case hard to analyze.

An oil producer is responsible for their own operations and if these are affecting the surrounding environment in a negative manner, they are obligated to act towards mitigating these effects. Shell has not been able to properly implement cleanup procedures for the oil polluted areas stemming from the company's operations in Nigeria. No matter the reason, if their equipment fails and oil spills occur they are responsible for providing sufficient cleanup measures.

H&M are responsible for their choice of supplier. Should their supplier violate any human or labor rights through their operations, H&M are complicit in the act. Their ability to respond determines their responsibility. The company has not been able to control the activities of their supplier and should work towards developing more sufficient control measures.

Both companies are responsible for the reality in these two countries, because their activities in the countries are indirectly supporting the corrupt governments. This is an inevitable truth that cannot be avoided. But on the other side, their presence does not necessarily need to be a bad thing. Both companies are in a position to be part of the process to improve the two countries, along with their institutions.

But the companies are not alone in holding responsibility, and other participants and stakeholders were also identified as responsible actors. The NNPC, along with the Nigerian government, is making Shell complicit in illegal practices through the joint venture SPDC. The NNPC is a corrupt corporation which plays a large role in depriving the Nigerian population of the revenue from the oil industry. The government is also unable to provide flourishing lives for their citizens. The corrupt local communities are extending the circle of corruption that defines Nigeria, by committing sabotage on pipelines in order to receive compensation from the company or the government.

The corrupt government of Cambodia is unable to provide the Cambodian garment workers livable wages and enforcing regulations that protects the workers against dangerous working conditions. The Norwegian government import tax is contributing to a more unequal distribution throughout the value chain, providing for our welfare state. Also, we as consumers are contributing to this reality by continuing to buy clothes from these companies. As we demand low prices, H&M must demand lower production costs from the supplier, extending the inequalities.

It is important to highlight the role the media plays in reporting about these cases. As mentioned above, the media and the tabloids have a tendency to report stories that sell newspapers. And if the media actually covered the whole value chain and showed for example that one of reasons H&M must push the prices in Cambodia is because the tax level in Norway is so high, or that even though most of oil spills in Nigeria can be blamed on operations connected to the big MNO's some of the spills are caused by local communities who want money in form of compensation. This would result in a whole perspective on the cases, forcing people reading the news to reconsider their part in this reality.

Through the course of this thesis I have looked at how the companies have acted when faced with different challenges. Since this being exploratory research no conclusive evidence was expected or has been found. I have, however, found interesting aspects regarding international business dealing with challenging circumstances which I believe can be of service to companies. Below, I have developed a small list of five recommendations MNO's should notice. They are derived based on the experience of the companies, and the fundamental and applicable principles. The recommendations are not intended to be a new framework in itself, but more of an extension of the already existing frameworks and principles.

1. If an organization thinks they should respond to ethical problems because it is right, or because they might be receive negative attention, they should respond.
  - To respond will most likely be less expensive than not responding.
2. Encourage cooperation between competitors and stakeholders, both within and outside the industry, regarding mitigating effects of potential ethical problems.
  - This will lead to decreased expenses.
  - Positive reviews.
3. Organizations should analyze the institutions and determine their adequacy.
  - By being proactive it is easier to identify potential ethical problems.
  - Develop adequate risk mitigating tools.
4. Improve local institutions through developments and support.
  - Important that possible development projects are involving the intended recipients to avoid dependency on the organizations.
5. Develop sufficient control measures for controlling their suppliers, collaborators, and stakeholders.

Finally, after discussing these cases across ethical frameworks, determined the responsibility of the companies and the value chain participant, and analyzed the institutions, I will share some final thoughts.

Dealing with the business environments these MNO's are facing is very difficult and blaming it all on them is wrong. Their value chain consists of multiple participants who all affect the company both positive and negative. In order to achieve positive changes are depending on the collective cooperation of all of these participants working towards a common goal. But even though there has been seen an increased focus towards social responsibility over the last decades, it seems that no one is truly embracing it. Many of the measures developed by MNO's to tackle these challenges are often perceived as showcases, something to tell the world how clever they are. We have seen with a lot development projects over the years. Designed to help the country progress and make life easier for the local, many of these projects has failed. And after looking at the reality, the difficulties and the deep-rooted problems that exists it is not hard to see why they failed. It demands knowledge and commitment by all parties in order to achieve efficient changes. Even the consumers are not committed to see these changes fulfilled. We are quick to pass judgment and blame, but when it comes down it, many of us do not care what happens down the line, as long as we get what

we want, which could be cheap clothes or more welfare. So, can we just consciously sit back and expect that others will solve the problems? Is this just the way it is?

I believe the reality will change, and we can see that already, but it will change slowly.

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