Summary

This PhD thesis primarily revolves around the questions how multinational companies (MNCs) embed their commitment to human rights and what factors determine its success. As was described in chapter 1, MNCs have become important actors in the world economy. This increase of power of multinationals has lead to the perception that these companies can influence the human rights situation in a country negatively or positively. Even though states have the primary responsibility to implement human rights, an increasing number of MNCs in the past decade have expressed a commitment to adhere to human rights Standards in their operations. However, human rights are interpreted differently in different contexts and no globally agreed standards, responsibilities and accountabilities for business regarding human rights exist as yet. As a result, MNCs are often confronted with dilemmas in embedding their commitment to human rights in different contexts, especially when different spheres of influence are concerned. For example, could a MNC be held accountable for not speaking out against a regime that is violating human rights? This leads to many questions from the business community on how to embed human rights in their operations.

After the deadlocked discussion around the introduction of the '*Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*', the UN Special Representative on business and human rights was appointed in 2005. He and others have been working since the start of his mandate on clarifying the responsibilities of MNCs regarding human rights, develop tools and best practices. This work has increased the attention on understanding how MNCs aim to embed their commitment to respect human rights into their operations across the world and learn from those experiences. This PhD thesis therefore aimed to contribute to this learning by answering the primary question how the degree in which human rights is embedded within a MNC is explained. The three sub-questions include a) how human rights is embedded, b) assess the degree of embeddedness of human rights and c) explanations for this degree.

Chapter 2 of this thesis concluded that little research has been done so far on how MNCs embed their global commitment to respect human rights and what their experiences are. The goals of embedding human rights were determined as to respect human rights, avoid being complicit in human rights abuses, and, within the sphere of influence, do what is possible to promote human rights principles. Nevertheless, the boundaries of these concepts are still under debate and need to be developed further. As a result, a MNC is confronted with many different dilemmas. A research model was developed to identify factors that can potentially explain the degree in which the mechanisms to embed human rights are used within a MNC. The concept of 'embeddedness' was used as the basis for this research model, which means in this research that embedding the commitment to human rights is influenced by the actor relationships that this MNC has and the contexts in which it operates. From this concept, a general direction of how to embed human rights was derived, i.e. to *weakly re-embedding* a MNC's commitment to human rights by adapting their approach to the local contexts and stay within the international framework of human rights at the same time. In doing so, a MNC should have the flexibility to deviate from any local or global norms and values when necessary to resolve its dilemmas.

The field of international business management theory is well developed, but management of ethical practices in general and human rights in particular has not or to a limited extent been addressed. The research model in this PhD research therefore came from a traditional field in international business management,

which was applied to management of human rights. The model of Tatiana Kostova was found to be best suitable for this research. She researched the success of the transfer of organisational practices in MNCs and her model is based on the idea that the process of transfer is contextually embedded. The degree of implementation and internalisation within subsidiaries and/or joint ventures determine the success of the transfer, influenced by three types of contexts: the social (external), organisational and relational context. The model was adapted and complemented to fit this research, adding e.g. the process of embedding within Headquarters, home context, adaptation of the practices by subsidiaries and/or joint ventures and characteristics of the subsidiary itself.

The mechanisms to embed human rights that this research has identified include external and internal mechanisms. The external mechanism comprises stakeholder management. When global and local contexts conflict and human rights dilemmas occur, MNCs can engage their stakeholders in order to jointly find a way to resolve these dilemmas. The internal mechanisms to embed human rights are a human rights management strategy and system. The management strategy depends on the level of autonomy of subsidiaries and/or joint ventures within the MNC. The management system is used to coordinate and control all efforts on human rights within the organisation to ensure that the goal is reached. These mechanisms as well as the three types of contexts that can explain the degree of implementation and internalisation were further explored in chapter 2 from a theoretical perspective.

The next step was made in chapter 3, which explained the method of approach or *how* this research has been conducted. From the available research methods, qualitative research was found to be more suitable for the nature of this particular research. Case study research and action research were used in this research to answer the three research questions. Case study research is a strategy that focuses on understanding the dynamics present within single settings. Action research is a family of research methodologies, which pursue action (or change) and research (or understanding) at the same time. Both types of research have raised concerns around the degree of validity (replicability and generalisability) and ethical issues. In general, the criticisms related to validity can be overcome through providing complete transparency on the whole process (e.g. by using case study protocols). The requirements for validity and how they are fulfilled were listed for action and case study research.

This research was conducted in one case, i.e. the multinational extractive company Royal Dutch Shell (in short, Shell). The reason for choosing one company 'only' to conduct research is that longitudinal research is required in order to answer the research questions in a proper way. Shell was found to be especially suitable for this research, since it is a front-running company in the area of human rights, faces many human rights dilemmas and access was provided. Within Shell, four inter-connecting levels of research or cases were identified: Headquarters, overview of all subsidiaries and/or joint ventures, subsidiaries and/or joint ventures that use the externally developed Human Rights Compliance Assessment (HRCA) tools and one subsidiary that uses human rights training. These form the four empirical chapters. At Headquarters level and the subsidiary level that uses human rights training, the approach of action research was used. The research was conducted during two years; from mid-2004 to mid-2006.

Chapter 4 described and analysed the process of implementation and internalisation of human rights mechanisms within the Headquarters of Shell. Shell developed its human rights policy as the first oil company as a result of events in local contexts that escalated to pressure in the global context. The

policy objectives aimed to demonstrate its commitment by promoting human rights at ground level in sensitive countries and engaging stakeholders as well as gaining leadership support, integration of human rights elements into existing processes and training and internal communication. The approach to develop a management system relating to human rights was analysed over different periods of time, ranging from exploring concepts and raising awareness, developing tools and implementation. The different approaches were also driven by developments and changing expectations in the external global context of Shell.

Shell chose to embed human rights through its existing processes with a specific human rights locus being the policy and external relations team. The policy team is driving the internal embedding process of human rights, but the balance between this specific locus and embedding human rights within existing processes forms part of a continuous discussion. The instruments used (and the way they are used) to implement and internalise human rights mechanisms within Shell ranged widely from checklists to strategic partnerships with NGOs. Within the different approaches over time, the policy team used implementation and internalisation instruments in cycles, in which internalisation instruments were used to strengthen the impact of the implementation instruments.

The findings of applying the Quick Check version of the HRCA tool to Headquarters showed that Shell Group has well developed policies and Standards covering human rights in a number of areas, but it also identified particular areas where Shell needs to direct more attention. The areas needing more strengthening primarily sat within the wider the spheres of influence and where the local contexts substantially influenced the company's control over these areas. It appears that the more distant the sphere of influence, the less a company can rely on implementation and the more a company needs to rely on internalisation. However, it was also found that the status and/or consistency of contents of some of the guidelines for subsidiaries and/or joint ventures were unclear, potentially creating confusion at the subsidiary level. In the process of strengthening these areas within Headquarters, the influence of the demands from the global context (e.g. reserves crisis), the importance of informal networks within the company (relational context), knowledge of organisational structure, changing leadership, competency and behavioural change proved to be crucial.

Shell also tries to influence the wider spheres of influence through extensive stakeholder engagement in the global context and has several practices and tools in place to coordinate this across the company. Shell does not explicitly look in their tools whether the claims of stakeholders are legitimate, because the company feels that it cannot make that assessment or that it is less relevant whether claims are legitimate based on previous experience. Interviewed external stakeholders regard Shell Headquarters as a leader in policy development regarding human rights. However, striking in the analysis is also that people think that a disconnect exists between what is happening on the ground and Shell Headquarters. Stakeholders, especially NGOs, are concerned about Shell's involvement in countries that are known to seriously violate human rights, the negative impacts of Shell's activities as well as the perceived lack of will to assume responsibility. Shell appears to be often the target because of its highly visible multinational brand and its large impacts on local communities. The relative poor internalisation of human rights and the importance of stakeholder engagement is primarily blamed to the clash between the rational engineering mindset within Shell and the emotional arguments of stakeholders.

Moving from Shell Headquarters, an overview of the ways and degree in which human rights risks are implemented and internalised within subsidiaries and/or

joint ventures was provided in chapter 5. This was done by analysing the outcomes of existing (assurance) instruments and interviewing country managers (country chairs). Regarding the strategy that Shell uses to implement and internalise human rights within its Businesses and subsidiaries and/or joint ventures, this chapter concluded that the Businesses and subsidiaries and/or joint ventures have a relatively high degree of autonomy in implementing the Shell Standards and guidelines. Although some experience this as positive, this weak-embeddedness also leads to tensions with policy owners and focal points around their perception in what degree they can influence the ways and consistency of implementing human rights elements. From a subsidiary point of view, however, the human rights strategy tends to be drawn increasingly into a 'follow local standards' strategy, as the local contexts causes human rights dilemmas and the increasing use of e.g. non-controlled joint ventures reduces the influence that Shell has to implement its policies and Standards.

Shell subsidiaries and/or joint ventures were found to embed human rights by primarily implementing and internalising the Shell Group policies and Standards and using similar instruments as in Headquarters. The operating companies did not use separate procedures or instruments from Group procedures that deal with human rights explicitly, except when it is initiated from Shell Headquarters. The outcomes of the analysis therefore do not differ substantially from the outcomes at Headquarters level, with similar areas requiring strengthening. The dilemmas that the local context poses became clear in this analysis, especially around discrimination, labour unions, indigenous peoples and bribery and corruption. Using an existing classification of the human rights risk per country, it was found that extreme/high human rights risk countries substantially affect the possibility to embed human rights within the particular subsidiary. Nevertheless, the degree of internalisation of human rights with country chairs could also be improved.

Moving deeper within the MNC, six subsidiaries and/or joint ventures (two existing and four new) based in different parts of the world using the HRCA tools were researched in-depth in chapter 6. The HRCA tools were found to be of value to the company in assessing how the company's policies and procedures align with human rights, but also showed a number of challenges. A particular way of applying the tools was developed from the experiences to increase the value. The results of applying these tools to the six subsidiaries and/or joint ventures did not show any differentiation with the results of Headquarters. The analysis strengthened the conclusion that Shell subsidiaries and/or joint ventures manage human rights by aiming to implement and internalise the Shell Group policies and Standards. However, this chapter also showed that the focus of implementation of these Standards differ per country as a result of the local context. Despite the differences in local context, however, the *process requirements* of implementing the Group Standards can be the same. Besides, it was found that most of the subsidiaries and/or joint ventures discussed in this chapter asked for more integrating of human rights into Group Standards.

Nevertheless, a tension between Group and local implementation does exist. Some policy developers in Headquarters are seen by subsidiaries and/or joint ventures as unaware of the local contexts in which these companies are embedded. Headquarters would be more of value if it provides more advise how implementation of the Standards should be handled in the local context. This means that the subsidiaries and/or joint ventures are willing to follow the formal rules implied by the practice of these Standards, but that the local context sometimes prevents them from doing this. Especially the characteristics of the subsidiary/joint venture, i.e. the degree of influence within a joint venture, make it difficult to follow human rights practices. Furthermore, it appeared that the number of issues faced by Shell (existing or new) subsidiaries and/or joint

ventures increase when moving further away from a company's core operations towards the outer spheres of influence. Shell companies especially experience human rights issues in relation to its contractors and business partners and government.

The degree of internalisation was found to be relatively low. Subsidiaries and/or joint ventures displayed a low level of ownership and satisfaction and the level of commitment differed substantially. Subsidiaries and/or joint ventures felt that the human rights situation as perceived from the international perspective is different from how they experience reality and they felt 'powerless' as a company to change it or even to impact the situation. This appeared to be especially valid for when the Shell share within a joint venture becomes smaller and the principle joint venture partner is the national government. The influence of expatriates was found to be particularly vital in embedding human rights within subsidiaries and/or joint ventures. It appeared that expatriates displayed more commitment to the practices of the parent company, which may result from a higher experience of identity with and trust in the parent company since these expatriates have worked in Shell Headquarters. On the other hand, local individuals fully embedded into the local context were also needed to further embed the human rights practices, especially joint ventures. An expatriate manager may not be able to make the 'translation' necessary in order to let local employees understand and accept the importance and the contents of the practice, which leads to low degree of internalisation.

To fit with the local context, subsidiaries and/or joint ventures were also found to have adapted the ways of internalisation (and implementation) of human rights. However, this did not necessarily mean that the values implied by the practice of human rights did not match the values underlying the culture of the Shell subsidiary and/or joint venture. Human rights are a sensitive topic in many countries because it is used as a political pressure mechanism in international relations, but that does not mean that many people are against the contents of human rights. The adoption of human rights practices is more affected by the relational context (attitudes and power relationships between individuals) than the organisational context (general and practice specific organisational culture). The importance of the relational context also became apparent through the driving role of key individuals.

Moving again one analysis level deeper within the MNC, the subsidiary in Nigeria was researched in chapter 7 to determine the degree the subsidiary implements and internalises human rights mechanisms and how this can be explained. This subsidiary is selected in this research because the materiality of the country to Shell, the sensitivity of Shell's human rights performance and the use of human rights training as a tool. The context of Nigeria and the Niger Delta (region in the South) were described and it was concluded that the discovery of oil has lead to the deterioration of the human rights situation. As Shell's subsidiary, SPDC, is the largest oil company in the region, the company has been faced with many human rights issues in the past and present, impacting strongly on Shell's international and local reputation and the ability to produce oil. In fact, Shell Headquarters made an explicit commitment in 1997 to human rights due to events in Nigeria. However, SPDC started to pay explicit attention to human rights only in 2005, when society's expectations on business and human rights increased and the situation in the Niger Delta deteriorated. All of these aspects together with the enormous challenges SPDC faced on the ground did not facilitate support for the initiation of any explicit human rights activities.

SPDC has deployed a number of initiatives to increase its human rights performance. The subsidiary was implementing Shell Group policies and

Standards and internalisation of human rights mechanisms by staff was explicitly addressed by the human rights and conflict resolution training. Nevertheless, the degree of implementation and internalisation varied, which were influenced by factors within as well as outside the control of the company. Examples include:

- Employees: close personal and ethnic ties prevents the company from properly creating a culture of transparency.
- Contractors: insufficient monitoring and low transparency of the formal rules as well as a contractor's lack of understanding, psychological ownership and commitment to these rules by contractors due to a high degree of poverty and lack of education.
- Communities: time and budget constraints, bureaucracy and poor coordination as well as poor listening, integrity, and competency community liaison officers. These issues can be explained by a lack of training in effective sustainable community development and whether officers feel valued and protected by the company. Further, prioritising stakeholder demands from communities have proofed to be difficult due to a high level of variety in demands and internal conflicts. This is caused by the absence of a well-organised civil society and a break-down of local governance in the Niger Delta, facilitated by impunity and the level of poverty.
- Government: the government's responsibility to provide the proper conditions for respecting human rights has been transferred to SPDC. Finding a proper balance depends heavily on the practices of the government.
- International society: internal misunderstanding and sometimes insufficient knowledge of where stakeholders are coming from, the low integrity of the Nigerian media and the seemingly low level of knowledge of important international stakeholders about the complex reality a company faces in the Niger Delta.

Stakeholders expect SPDC to step into the void of government failure and be a 'force for good'. To some extent, SPDC has tried to fulfil this expectation, despite the many dilemmas that SPDC faces. In doing so, SPDC had to take a learning journey in the implementation and internalisation of human rights, but the overall weak governance of the Niger Delta strongly influences this as well.

By drawing conclusions from the analysis of the MNC Shell in chapter 8, the research questions were answered. The analysis across the different levels in Shell shows that an explicit 'human rights management system' was not used. Instead, the company was aiming to embed human rights through existing procedures, following a 'plan-do-check' cycle. This system has been found to be able to manage human rights as well (with one specific locus at central level), as it proved to be possible to place consistent, minimum process requirements on certain, existing, internal company processes throughout the world, although there are also aspects which have to be tackled locally. Nevertheless, some areas needed to be strengthened, primarily guidelines for subsidiaries and/or joint ventures on how to implement and internalise particular human rights areas, especially in areas where the company has less control.

The important role of Headquarters also became apparent, as the subsidiaries and/or joint ventures researched within Shell implement Group procedures and initiate implementation of human rights mechanisms themselves only to a limited extent. The degree of internalisation of human rights was relatively low, however. Despite this difference, the degree of internalisation appeared to be strongly related to the degree of implementation, as awareness and understanding needed to be raised first before procedures are implemented adequately. The other way around (degree of implementation influences the degree of internalisation) was not always apparent.

Important explanations were found in the global, local, organisational and relational contexts. The continuous attention of international stakeholders is an important enabler of embedding the commitment to human rights, sometimes providing an internal mandate to initiate activities in the case of Shell. And local context issues also drive the global context issues through linkages between local and international stakeholders, although these issues are sometimes taken out of its local context. As international stakeholders drive Shell to increase the degree of implementation, the local context and local stakeholders often influence the degree of implementation negatively. The relational context appeared to be an important explanation as well by revealing a general distrust of the subsidiaries and/or joint ventures researched towards Headquarters that it is able to understand the local contexts and the crucial role of expatriate employees in bridging the relative distance between Headquarters and subsidiaries and/or joint ventures. Finally, the organisational culture of Shell played an important role in explaining the degree of embedding human rights, such as the rational engineering mindset and the risk management rationale.

The theoretical implications of this research meant the empirical results have generally confirmed the applicability of the research model developed in chapter 2 and the use of 'traditional research' of international business management as a solid foundation in researching the process of embedding human rights within a MNC. Nevertheless, the research model was also further sharpened and updated. Key points include the conclusion that the concept of 'spheres of influence' appeared not be helpful in determining the degree of control and responsibility of a company to resolve a situation giving rise to human rights abuses. Further, the organisational culture was found to be less relevant in explaining the degree of embedding the human rights management system as compared with the relational context. Finally, a number of limitations, discussion points, suggestions for further research and recommendations were provided.