

RUSSIAN SPACE MEETS WESTERN BUSINESS PRACTICES: UNDERSTANDING THE LAW IN THE PETROLEUM SECTOR IN RUSSIA

Sander Goes (The Barents Institute, UiT The Arctic University of Norway)

Abstract

This article discusses the relationship between the private international oil company (IOC) Royal Dutch Shell and Russia as an oil producing and oil exporting state during a period when oil prices were moving towards unforeseen heights (2005-2007). By examining this dynamic relationship, this study aims to contribute to an understanding of Russia's discursive and culturally produced history. The history of a state-oil company interaction has shown that the use of legal instruments is a good indicator to determine the nature of the relationship between oil-producing states and IOCs – a relationship that often has been characterized by periods of cooperation or conflict. At the centre of inquiry is how the oil major understands the law in Russia, and in particular the enforcement of the country's formal written rules during legal conflicts over the development of the Sakhalin-II oil and gas fields (in which Shell until December 2006 controlled a majority stake). After identifying the violations of formal laws, I conclude that Shell understands that the formal rules of the game are subordinate to the unwritten laws of energy politics and in particular the informal demands of contemporary Russian society. The article also illustrates that oil-producing states have the upper hand in conflicts over the development of oil and gas resources.

Keywords

Law enforcement; oil and gas; IOC; formal rules; informal practices; formal institutions; resource nationalism; (dis)obedience; Shell

Introduction

What do Norwegian salmon, chocolates from the Ukraine, Georgian wine, Dutch potatoes and Polish apples have in common? They all fail to meet Russian health and safety regulations and have been prohibited from entering the Russian Federation for a particular period of time. Foreign industries have long been struggling with enforcement practices conducted by Russian regulatory agencies (not to be confused with the current overall ban against products from, among others, the EU as retaliatory measure to the international sanctions against Russia). Not only when they export their goods and services to the country but also when they operate on the Russian territory.

Russia's legal system including its laws, regulations and enforcement practices, in addition to the use (or abuse) of it by authorities to influence particular outcomes, has been discussed extensively in academic literature (Pastukhov 2002; Ahrend and Tompson 2005; Ledeneva 2006; Bradshaw 2006; Ahn and Jones 2008; Hanson 2009). While the Russian state is the centre of inquiry in many of these works – whether in terms of the development of the country's legal system or as confident energy power seeking to increase its profits – the main objective of this study is to illustrate the viewpoint of foreign oil companies operating in the petroleum sector in Russia. In this article I discuss how Royal Dutch Shell as a private international oil company (IOC), to be distinguished



from companies owned by the state such as Rosneft and Gazprom, has understood the law in Russia and in particular, the enforcement of the country's formal written rules. Did, for instance, Shell respond to the accusations of law-breaking behaviour by making sure that their business activities complied with the rule in question – as one would expect when accused for disobedience – or did the oil major apply a strategy aiming to challenge these accusations by questioning the reason(s) *behind* the decision to enforce the law?

In this study, I will analyse the strategies taken by Shell in response to the sanctions imposed on them by Russian law enforcement authorities. By identifying these strategies, I aim to examine how the Anglo-Dutch oil major understood enforcement mechanisms and regulatory pressure (the threat to impose sanctions) when they conducted their operations in Russia during a particular period of time. The case study discussed below is related to academic literature stating that the enforcement of formal rules in Russia is a manipulative game with objectives other than the enforcement of the rule/law in question (e.g. personal and/or political), as the country's legal system is an intertwining of the informal and formal levels of Russian society (Pastukhov 2002; Ledeneva 2006, 2008; Goes 2013). The history of a state-oil company interaction has shown that the use of legal instruments is a good indicator to determine the nature of the relationship between oil-producing states and IOCs.

The objective of this case study is not only to contribute to the debate on the challenges that IOCs face when they operate on the Russian territory but also to increase our knowledge of how actors (individuals and organizations) understand law enforcement practices in Russia. The changing relationship between Russia as an oil-producing and oil exporting state and IOCs also contributes to an increased understanding of Russia's discursive and culturally produced history by illustrating the (re)definition of the nature of this relationship during historical periods.¹ Such a relationship, as outlined below, can vary from periods of conflict or tough negotiations over future projects to periods in which cooperation between both actors is emphasized. Furthermore, I have selected this case because of its unique public character making it possible to analyse this interaction process, as outsiders usually have no or limited access to legal disputes between a state and an oil company. The data used in this study is based on semi-structured interviews conducted between 2008-2012, official publications (such as press releases, annual reports and sustainability reports) and, in some cases, audits conducted by third parties.²

The term law is defined here as a set of formal rules enacted by legislatures that are consciously produced and enforced by mechanisms such as Russia's federal environmental enforcement agency Rosprirodnadzor or the federal service for ecological, technological and nuclear supervision, Rostekhnadzor. Regulatory pressure is understood

¹ This so-called concept of "spatial history" aims to study Russia's history not only as an objectively existing physical reality but also as something discursive and culturally produced in which psychological processes of cognition and perception play an essential role in determining space by mapping its changing meanings (Bassin et al. 2010: 3-8).

² Documents such as annual reports are not necessarily transparent representations of decision-making processes. Nevertheless, they construct meaning and provide useful social facts or constructions that can help us to understand particular processes and/or decisions. The annual reports analysed in this study were published between January 2000 and October 2008. In order to assess what they say about enforcement practices in Russia, these annual reports were analysed for relevant text, headings or statements.

here as a *threat* of imposing sanctions without necessarily implementing them. Law enforcement, by contrast, is defined as imposing concrete sanctions against an offender.

Before I discuss how Shell understood the enforcement of the formal rules in Russia, I start with a brief overview of the relationship between oil companies and the oil-producing state in which they operate. This is necessary in order to better understand the course of events during the dispute between both parties, outlined in the second part of this article. For the same reasons, I also need to outline Russia's legal framework, including the enforcement of formal regulations. Conclusions are offered in the final section.

The relationship between the oil-producing state and IOCs

Throughout history, the relationship between oil-producing states – as the ultimate owner of hydrocarbon resources on its territory – and IOCs has been characterized by periods of cooperation or conflict (Noreng 1997:129). During such conflicts, IOCs are pressured by oil-producing states to accept less favourable terms with regard to the development of oil and gas fields. Stevens (2008) argues that the relationship between the oil-producing states and IOCs is characterized by a cycle that starts with the opening up of areas for exploitation and is followed by a process of re-negotiation or (re)nationalization of agreements. Such processes are influenced mainly by a concern that IOCs are taking too large a share of the cake. In the literature such forms of state intervention have come to be known as “resource nationalism” (Stevens 2008; Bremmer and Johnston 2009; Domjan and Stone 2010) or “obsolescing bargain” (Vernon 1971). Throughout history, opposing interests – and sometimes even conflicts – aroused when oil prices were increasing or when earlier deals were considered outdated. The struggle for a bigger piece of the cake is therefore not a unique Russian story. Nonetheless, the turbulent – for Russia – 1990s created plenty of opportunities for IOCs to make high profits on the exploitation of the country's tremendous oil and gas reserves. PSA – product-sharing agreements³ – between the Russian state and several privately owned internationally operating oil companies such as ExxonMobil and Shell were the result. But a decade later or so, these deals were considered unacceptable as oil prices rose to historic records during the 2000s, with the inevitable result that the seed for a potential conflict had been sown.⁴

Enforcing the rules of the game

Understanding the reasons behind (dis)obeying the law is of interest, as authorities depend on legitimacy in the eyes of the regulated community. Three factors are generally assumed to influence law-abiding behavior: personal morality, deterrence and social control, such as disapproval by friends and family. Attempts to further examine the reaction of members of the public to the law in their everyday lives has resulted in two mainstream theoretical explanations: the normative approach and the instrumental approach. Theorists emphasizing the normative approach – of which Tyler's study (1990) is most known – argue that people obey the law and the procedures by which they are arrived at (procedural justice) because complying with the law is the right thing to do,

³ A PSA is a written agreement between the investor and the state with the purpose of defining the terms and conditions for the exploration of natural resources, replacing existing tax regimes.

⁴ The price for crude oil (brent) increased from around 50 USD/bbl in the beginning of 2005 to far above 100 USD/bbl in the first half of 2008.

without necessarily balancing the costs and benefits. Tyler (1990:102) shows that judgments about the fairness of formal legal procedures, based on respondents' personal experiences, influence views about the legitimacy of legal authorities, which in turn influences compliance. Tyler (1990:22) argues that authorities cannot alter public behavior only by delivering or threatening to deliver sanctions as citizens have been found to obey the law even when the probability of punishment for noncompliance is almost zero, or to break laws in cases involving substantial risks for a sanction. In addition, he argues that individuals and organizations accept and obey the law because they have trust in authorities, including the agencies and public managers that represent them (Tyler 1990). Trust is based on how the regulated community expects the authorities to act. If people support legal authorities by regarding them as legitimate, they are less likely to break any laws (Tyler 1990:4; Levi and Stoker 2000:493). Yet on the contrary, when people do regard legal authorities as illegitimate, they are found to be less willing to comply with the law (Tyler 1990:64). The legitimacy of authorities will then be eroded, as the legal system "consistently fails to meet citizens' standards" (Tyler 1990:106-108). "Bias" with regard to views of fairness and morality can occur when the decision maker has an interest in the outcome or when the decision maker relies on prior views rather than the evidence (Tyler 1990:117-118). Therefore, law indifference, according to Gur (2013:341), is not a behavior that those subject to these laws should aspire to have. In an attempt to further identify the normative approach, Tunick (2002) distinguishes between the contagion and the political argument. The contagion argument, in Tunick's view, implies that obeying the law is the right thing to do in order to prevent the spread of disobedience, possibly resulting in widespread lawlessness, whereas the political argument entails that as members of a political community we ought to obey its rules.

So rather than calculating costs and benefits, the regulated community, apparently, seeks that their concerns are addressed properly, and that their words are expressed and/or considered important. Theorists of the instrumental approach, also known as the deterrence literature (Andenæs 1974; Blumstein, Cohen and Nagin 1978; Tittle 1980), however, do argue that people seek maximum attainment of favorable outcomes by adapting their behavior to the likelihood of being punished by the law, or to the extent that they will be rewarded if they comply with the law.

In Russia, as I shall outline below, the motivations for complying with or enforcing the rules sometimes differ from practices conducted in the western world. In Russian context, law-abiding behaviour or legal disputes over disobedience of the written rules often entangle with phenomena specific to societies where the rule of law is under construction, i.e. the almost total fusion of the formal (legal) and informal (political or personal) spheres. As such, attempts to enforce formal rules in Russia are not necessarily motivated by the logic or spirit of the law but often by commercial, political or personal interests (Ledeneva 2006). Consequently, as this article illustrates, multinational companies operating on the Russian territory find themselves caught between the difficulties of complying with formal regulations and the informal norm because they fail to grasp the drivers behind the accusations of law-breaking behaviour. In such cases western business practices meet Russian attitudes that are articulated through law enforcement practices. Before examining how Shell interpreted enforcement practices conducted by Russian regulatory agencies, the next section briefly discusses the features of the relationship between law and society in contemporary Russia.

Analysing the law in contemporary Russian society

Formal institutions play an important role in regulating and coordinating interactions between the state – as regulator and enforcer of the formal rules – and the regulated community including citizens, oil companies etc. Regulatory intervention is necessary when the government cannot be certain that the regulated community by itself will achieve the public policy goals it desires (Macrory 2008:25). As such, the enforcement of formal rules, by sanctioning those who do not comply with these rules, acts as a deterrent against future breaches and sends a wider message to the regulated community that those who have sought to cut costs by non-compliance do not gain an unfair advantage. Those subject to the rules are not literally forced to comply with the rules but compliance is usually an outcome of rational calculation (Andenæs 1974; Tittle 1980) or when those subject to the law feel that the rules are legitimate, as outlined above.

Russia's regulatory system has been subject to changing ideologies and political developments – from a country being a member of the Soviet Union until its current status as an upcoming economy (the so-called BRIC status).⁵ Each ideology introduced a new set of formal regulations, without necessarily replacing the ones that had come before (Lonkila 2011; Gustafson 2012). The country's changing ideologies are one of the main reasons for the current state of the legal system. In Russia, there is a gap between the situation on the ground and the written requirements demanded by the law, not necessarily because the text of the specific rule can be unclear, but also because there is a lack of coherency between the regulations of different governmental authorities. One of the unfortunate results of this is that the rules can be challenging to comply with for those subject to them, again leading to a gap between the rules – the formal system – and practice. Alena Ledeneva (2006, 2008, 2013) claims that the ability of the legal system to function properly, moreover (and perhaps therefore), has been subverted by a set of informal practices, a phenomenon called *blat* during Soviet times. The use of *blat* was recognized and reported upon in almost every region in the USSR (Ledeneva 2006:1). *Blat* – or 'pulling strings' (Lonkila 2011:56) – is defined by Ledeneva (2013:10) as a practice often bypassing complicated formal regulations or procedures in order to obtain goods or services. Over time, such practices became embedded in Russian tradition and culture and when the young Russian Federation was in its first years of economic and political development, these practices, so useful during the Soviet period, could not and would not disappear overnight. Especially not during the dark days of the 1990s when high rates of unemployment and inflation, rather than the economic improvement most of the Russians had expected, were front page news.

Informal practices in contemporary Russia may include bribes, selective enforcement of the written (formal) rules and patronage – networks extending from spheres of bureaucracy into social domains (Kahn 2002; Ledeneva 2006, 2008, 2013; Lonkila 2011).⁶ Again, addressing (or solving) disputes outside the legal authorities is not

⁵ The 'BRIC countries' are Brazil, Russia (despite its current economic crisis owing to relatively low oil prices in combination with international sanctions) India and China, all seen as having reached the stage of rapid economic development (Goldman Sachs 2001). This status is primarily based on Russia's oil and gas exports combined with some of the world's largest reserves of hydrocarbon.

⁶ For more detailed examples of informal practices in Russia please consult a published report by the Parliamentary Assembly of the Council of Europe (Parliamentary Assembly of the Council of Europe 2009).

uniquely Russian (see Guo Xinghua's 2008 study of law obedience in China) and occurs in western economies too. However, there seems to be a higher demand for such practices in societies, in which norms, codes or interests are insufficiently integrated into written laws and as such insufficiently able to fulfil people's requests. It is in the inability of the formal structure to fulfil the demand for stability, protection and predictability we might find an explanation for the increasing demand for informal practices. Furthermore, "informal practices" (Ledeneva 2006), "custom codes" (Lauth 2000) or "etiquette" (Guo Xinghua 2008:25) prevail in legal systems where public (and private) actors are "above the law" – in the literature described as "rule of men" (Guo Xinghua 2008:9) or "states ruled by law" (Kahn 2002:55) – contrary to public management systems based on the principle of the "Rule of law".⁷ One specific example of contemporary informal practices in Russia – the selective enforcement of the formal rules where regulations and/or sanctions are manipulated to secure favorable outcomes for insiders – will be discussed in more detail in the next section.

Selective enforcement in contemporary Russian society

Selective enforcement of the formal regulations is strongly related to – and perhaps even a result of – the functioning (or malfunctioning) of Russia's legal system (Pastukhov 2002). Besides selective enforcement, terms such as "suspended punishment", "administrative resource" and "strategic noninterventions" are frequently used to describe the creative enforcement of formal regulations (Sharlet 2005:130-147; Bradshaw 2006:6; Ledeneva 2006:13, 47-49). Selective enforcement of the regulations – where the primary motivation to enforce the law is not the spirit of the law but, using North's (1991:59) words, "private payoffs" – is argued to be related to the inability of the state bureaucracy to meet the requirements of the law itself (Pastukhov 2002). The administrative task of controlling all those who break the law makes it necessary for bureaucrats to enforce the law selectively as it is practically impossible to punish all offenders. Enforcing selectively, again, is not uniquely Russian. Yet a judge in a western court will most likely not accept that a local bar was closed down by regulators because the emergency exit was locked on a late Thursday evening. Hence, in western democracies there is normally a strong distinction between those who designed the law, those who enforce the law and those who prosecute offenders, whereas the independency of these three institutions is less noticeable in contemporary Russia (cf. the above-mentioned report published by the European Council). The enforcement of formal regulations becomes then a tool for the authorities, or in some cases private actors with access to these authorities (insiders), to manipulate outcomes, such as a particular outcome in a dispute over the development of an oil and gas project. This was to become evident in the conflict between the Russian state and Shell outlined in the following section.

Sakhalin Energy's operations at Sakhalin-II

Sakhalin Energy is the operator of the Sakhalin-II oil and gas project located in the Russian Far East. Sakhalin-II's two offshore fields contain a combination of oil and gas.

⁷ The rule of law is defined by the UN Secretary-General as "a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights' norms and standards" (UN Security Council 2004).

The Piltun-Astokhskoye field is primarily an oil field with associated gas, while the Lunskeye field is predominantly a gas field with associated condensate. These oil fields are located in one of the most remote and little developed regions of Russia's Far East with winter temperatures dropping to below 70 C. Sakhalin Energy was until December 2006 controlled by Royal Dutch Shell with a 55 per cent stake. Shell came into conflict with Russian authorities after the announcement of an 8 billion USD cost overrun in July 2005.⁸ Russian state officials – already upset with the terms of the oil deal from the beginning of the 1990s, when oil prices were relatively low and Russia's negotiation position weaker – were obviously not amused with cost overruns, as this meant that the state needed to wait longer for their revenues. The government, therefore, wanted to renegotiate the deal. However, several meetings between representatives of Shell and Russian officials (including Mr. Putin himself) ended unsuccessfully (Op het Veld 2008:10-11; WWF 2006:2). In the second half of 2006, Rosprirodnadzor started inspections at Sakhalin Energy's production sites (Sakhalin Energy Annual Review 2006:70). Soon after, the Russian authorities accused the oil major of violating environmental regulations, hence formal rules, and threatened the company with enormous fines. The sanctions that the Russian authorities imposed on Shell (and other IOCs), as well as their motivations for doing so, have been the subject of extensive discussion among representatives of IOCs, the media, politicians and experts.

The combination of noncompliance/inspections and disagreement over the future development of Sakhalin-II created the stage for a public fight between representatives of Shell and Russian environmental officials. Shell accused the authorities – in public – of creating a hostile investment climate for foreign investors (Goes 2013:111-134), as they considered the violations to be “minor” and “fixable” (Shell Sustainability Report 2006:35; Shell Sustainability Report 2007:33). The company's attempt to influence the decision-making process of the authorities was unsuccessful. Soon more inspections (and public accusations) followed, creating a scene similar to a “chicken-game” and a public media show in which Russian and western journalist were flown to Sakhalin so they could witness the “environmental disaster zones” on the island. After months of pressure, Shell – desperately seeking a settlement for this issue, embarrassing from an environmental perspective – sold 50 per cent of its shares to the Russian state-owned company Gazprom for 4,1 billion US Dollars at the end of 2006 (Shell Sustainability Report 2006:34; Royal Dutch Shell – Five-year fact book 2005–2009:55). The “happy” ending of this story, however, was not complete until Sakhalin Energy, now with Gazprom as its majority shareholder on-board and Shell as “technical advisor”, won the Ministry of Natural Resources' Environmental Project of the Year award for environmental excellence in 2007 (Shell Sustainability Report 2008:19).

Analysing the formal regulations Sakhalin Energy had to comply with prior to 2007, I conclude that compliance with the regulations in Russia was a far from easy task. An example illustrating the difficulty to comply with the written rules is when the maximum permissible concentrations for emissions and discharges are set at a concentration below the background levels of a particular substance in the locality (AEA Environmental report 2007:28). The challenges Sakhalin Energy faced in complying with Russia's legal framework were also described in Sakhalin Energy's first publicly available annual review report:

⁸ *Shell announces Sakhalin II project schedule and cost update*, Shell Press release, 14 July 2005.

‘The transition to democracy and a market-oriented economy has been a complex one that is still evolving. The legal and regulatory framework continues to be difficult for companies developing large-scale projects in Russia. (...) Russia remains a challenging place to do business. It can take a great deal of time and resources to conduct business transactions that would be more straightforward in other parts of the world. For example, more than one thousand official permits and licences were required to develop the Phase 1 project alone’ (Sakhalin Energy Review 2002:4).

The last sentence refers to obtaining a technical and economic substantiation construction (TEOC). This formal procedure requires the approval of several governmental organizations across various levels. The final approval issued by the Ministry of Natural Resources includes, according to an audit conducted on behalf of (potential) project lenders, “*numerous recommendations, suggestions which are sometimes vague and thus open to interpretation [and] it is not possible to confirm compliance with all these recommendations because of the ambiguous nature of some of the requirements*” (AEA Environmental Report 2007:26–27).

The violations of these requirements, however, did not seem to matter until the authorities in the fall of 2006 suspended the licences of two subcontractors because of the techniques used for crossing rivers (Sakhalin Energy Annual Review 2006:70; Sakhalin Energy Annual Review 2007:27; AEA Environmental Report 2007:272). The techniques most frequently used by the operator were classified as so-called “dry cut techniques” – crossing rivers while using flume pipes to transport the water stream through the disturbed area to make sure that the actual work can be done under dry conditions. This method was prohibited by Russian law prior to 2006 (AEA Environmental Report 2007:92). Regardless of practical issues, an additional problem for Shell was that the “dry cut technique” was regarded an example of the “Best Environmental Practice” elsewhere, implying that the technique is highly recommended as a “most appropriate combination of environmental control measures and strategies” (Appendix I of the OSPAR-convention). If Sakhalin Energy or its subcontractors would decide to bypass international environmental norms of the best environmental practice – while complying with Russia’s formal regulations – it would not only violate its own environmental action plan but also make it vulnerable to criticism from the project financier (the European Bank for Reconstruction and Development) and environmental organizations for using outdated techniques (from the beginning the project was heavily criticized by domestic and international environmental organizations owing to the risk of oil spills, biodiversity and the impact on the grey whale population residing around the infrastructure).

Hence, the requirements written in the licence permit are a good example of the incoherency of Russia’s legal system in relation to international agreements (in the underlying case, the OSPAR Convention requiring contracting parties to apply environmentally responsible techniques). Then it was perhaps a better option for Sakhalin Energy to violate the formal rules, hoping (or perhaps knowing) that inspectors were not interested in obstructing the development of such a major energy project... at least until Shell announced cost overruns in July 2005.

Interpreting enforcement practices

After identifying the violations of Russian law during Shell's operations in the previous section, below I discuss how the company reacted to law enforcement practices, conducted by Russian enforcement agencies – or in other words, how accusations and sanctions from the Russian authorities were interpreted by the foreign oil major. As Shell, unfortunately – but perhaps for understandable reasons – was reluctant to answer my direct questions on this subject, I have used annual reports and other publications by Shell and Sakhalin Energy as a proxy for gauging how regulatory pressure exerted by the Russian authorities was understood. Based on my analysis, Shell's response throughout the conflict may be divided into three different time periods (see Table 1).

Period	Event	Strategy
1 st period (July 2005 – May 2006)	Announcement of cost overruns with regard to the Sakhalin II project	Negotiations with the Russian authorities over the development of the project.
2 nd period (May 2006 – Oct. 2006)	Inspections by Russian officials and broad coverage in the media of a conflict between both parties.	Shell involves the public (and western politicians) to defend its environmental policy in an attempt to influence the decision-making process on the Russian side. Apart from officials inspecting production sites, there seems to be no formal contact between representatives of Shell and Russian officials during this period.
3 rd period (Oct. 2006 – Dec. 2006)	An agreement is signed providing Gazprom with a majority share in the project	Formal contact between representatives from Shell and Russian authorities is re-established.

Table 1: Shell's strategies during three different stages in their query with the Russian authorities (July 2005–December 2006).

The audit conducted on behalf of project lenders of the Sakhalin-II project (AEA Environmental Report 2007) confirmed that Shell had been in violation of environmental regulations – for instance, with regard to the techniques used for river crossings – long before the operator formally was accused for violating these regulations in the second half of 2006. During this period Shell – apparently – was violating neither any rules that deserved the interests of the law enforcement officials nor any unwritten rules by crossing anyone's interests. Instead, the company and the Russian authorities were in some sort of negotiation process during the first period, as illustrated in Table 1, when the message to Shell was not to be misunderstood: the company would have to pay for the cost overruns and/or provide state giant Gazprom with a major(ity) share in the project. As there seems to be no correction of law-breaking behaviour during the initial phases of the project, one

could in Ledeneva's spirit (2006:13) argue that the actual punishment had been "suspended." When negotiations failed (Op het Veld 2008:10-11; WWF 2006:2), pressure against Shell increased further with the publication of a report by the Russian Academy of Natural Sciences in May 2006 calling for a re-negotiation of PSAs in the petroleum sector. Within a few months after the publication of this report, inspections at production facilities were conducted leading to an actual enforcement of the rules by suspending licences necessary for construction activities in the fall of 2006.

Environmental conflicts are rarely acted out in public or end up in court, as companies are reluctant to get involved in a "painful process on the public stage" (Hawkins 1984:8). Instead, both parties tend to agree upon a solution before adjudication. Unlike most conflicts over environmental issues, the second period showed in Table 1 was characterized by the fact that the conflict had now moved into the public sphere. During this period, the dialogue between Shell and the Russian authorities continued in newspapers, rather than in meeting rooms. That the conflict got much attention from the media was the result of a carefully selected media-strategy on behalf of both parties. The negative – for Russia – storylines in the western media, mainly in terms of its alleged "poor investment climate", however, did not impress the Russian authorities and a Moscow visit by the then Dutch Minister of Economic Affairs was needed to secure a breakthrough and to re-establish negotiations. From then onwards, several meetings were held, most of them including President Putin and Shell's then CEO Jeroen van der Veer, to negotiate the terms of the final agreement (Op het Veld 2008:10-13). The new deal was finally presented in December 2006 and formally signed in April 2007.

Shell appeared to understand enforcement practices in Russia as Ledeneva (2006) stipulates it works, i.e. as a system of interconnected formal and informal levels in which the informal level is dominant. Shell seemed to opt for dealing with the dispute through informal mechanisms, e.g. by pressuring the Russian authorities. Rather than through court cases, the oil major sought ways outside the legal system to solve its problems, and hereby recognized the dominance of informal spheres in Russian society, witnessing a lack of allegiance and support to Russia's political and legal institutions. By opting for strategies like publicly pressuring the Russian authorities to stand off, rather than seeking to comply with the formal rules, Shell attempted to challenge the informal component behind the decision to enforce the law, perhaps also because a compliance with the formal regulations was practically impossible due to their complexity and/or shortcomings, as discussed above. The complexity of complying with formal regulations, however, is part of the basis for the manipulation of the legal system, and usually succeeds in making resistance futile for outsiders without direct state power or the willingness to play outside the formal rules.

Shell's understanding of the Russian law – including the enforcement of its enacted written rules and authorities that represent the state – gives an impression of an instrumental approach. Although in Shell's view "minor" and "fixable" (Shell Sustainability Report 2006:35; Shell Sustainability Report 2007:33), laws were broken but, more importantly, the legitimacy of the enforcement agencies was publicly questioned. In line with many actors in Russian society (in Ledeneva's view), the company did not feel a normative obligation to obey the law just because "complying with the law is the right thing to do" or out of fear of widespread violation (contagion argument).

Breaking the law or not, however, is not necessarily a question of right and wrong. Tunick (2002:478) warns us not to be too enthusiastic in judging that breaking the law is morally wrong as “facts unique to a particular case are essential in making a moral judgment about a particular law-breaking activity”. As Gur (2013:327) claims, there might be sound reasons for denying the obligation to obey the law under specific circumstances, for instance, with regard to the techniques used under Shell’s supervision for river crossing.

Conclusion

The centre of inquiry in this article is Shell’s understanding of law enforcement practices in the Russian petroleum sector, which is a particularly indicative test case for analyzing the relationship between IOCs and Russia as oil-producing state during Vladimir Putin’s second term as President. The strategies used by Shell to respond to enforcement practices, combined with the interview data, press releases and other official documents, gave a vivid picture of the meaning and understanding of enforcement practices in contemporary Russia.

After studying these documents, I conclude that Shell did not, but also could not, comply with the formal regulations. With respect to the enforcement of laws and connected beliefs about the legitimacy of law enforcement institutions, it seems that the oil major’s focus was on challenging the motivations behind the enforcement strategies, either through the media or more directly, by publicly framing these strategies as “politically motivated” by emphasizing the impact of such strategies on the country’s investment climate, rather than seeking to comply with the formal rules. The latter was perhaps a more logical step when faced with the accusation of breaking the law. As such, Shell interpreted law enforcement practices the way Ledeneva (2006) stipulates it, that the formal rules of the game (e.g. water pollution requirements including the enforcement of these regulations) are subordinate to the more informal, unwritten demands of contemporary Russian society (in the underlying case, the strengthening of state control in the petroleum sector, see for instance Hanson 2009:18). Shell’s behavior towards the law in Russia, moreover, not only confirms the findings of trust in relation to formal procedures, as discussed above, but also in terms of challenging the informal component in dealing with legal disputes. Thus, neither Tunick’s contagion nor his political argument, both discussed above, apply here, as Shell’s law-breaking behavior (including its reaction to the related enforcement practices) does not necessarily encourage other oil companies in Russia to violate water pollution regulations. However, the impact of law enforcement practices against Shell on non-targeted oil companies subject to water pollution regulations – the so-called “spillover effect” (see Tyler et al. 2011:4) remains unexplored and hence, interesting for further research.

The conclusion of this study, finally, does not mean that laws and other formal regulations are of little practical importance in contemporary Russian society. On the contrary, formal institutions might be effective if the overall goal is to punish the offender, no matter whether the broken law is poorly functioning. “He who breaks the law shall be punished!”, the 1977 science fiction film classic *The Island of Dr. Moreau* famously says. If the objective, however, is to secure an overall compliance by the regulated community – in Hawkins’s *compliance style* (1984:4-8) – rather than punishing those who break the law – in Hawkins’s *penalty-oriented style* (1984:4) – law enforcement practices might be

determined as less effective. The same can be argued when those who are subject to the law feel that they freely can ignore the written rules, as long as they obey the informal norms. Nonetheless, Shell misread the policy shift towards the petroleum sector, overestimated its own strength, and underestimated the determination and discipline of the Russian authorities. Above all, the oil major seems to have forgotten the often repeated lesson that oil-producing states have the upper hand in conflicts over oil and gas resources.

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