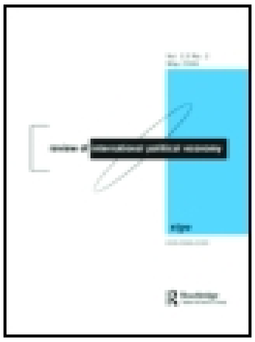

Review of International Political Economy

ISSN: 0969-2290 (Print) 1466-4526 (Online) Journal homepage: http://www.tandfonline.com/loi/rrip20

Beyond voluntary: state–firm bargaining over corporate social responsibilities in mining

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REVIEW OF INTERNATIONAL POLITICAL ECONOMY, 2018
https://doi.org/10.1080/09692290.2018.1447497

Beyond voluntary: state–firm bargaining over corporate social responsibilities in mining

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ABSTRACT
This paper investigates how and why governments use both regulatory and extra-juridical pressures to influence what are normally considered to be the voluntary corporate social responsibility contributions of mining firms to local social and economic development that go beyond compliance with regulatory requirements. Based on a modified version of the obsolescing bargain model, the paper argues that governments opt to co-produce corporate social responsibility when they face pressures to reform the firm's relationship with society but are unable or unwilling to change the legal framework that governs it. In this regard, institutional stickiness can result in the displacement of bargaining from the formal rules and regulations that govern foreign direct investment, to the unregulated and informal practices associated with the social responsibilities of business. The argument is confirmed through a qualitative examination of state–firm relations in the mining sectors of Argentina and Peru.

KEYWORDS State–firm bargaining; corporate social responsibility (CSR); political corporate social responsibility; obsolescing bargain; mining; mineral rents; weak institutions; Argentina; Peru; Latin America

Introduction

Vogel describes corporate social responsibility (CSR) as 'practices that improve the workplace and benefit society in ways that go above and beyond what companies are legally required to do' (2005, p. 2). His definition, which has been the dominant description of the nature and practice of corporate responsibility, established a clear separation between actions that are legally mandated, and those which are voluntary; as well as underlining the public spiritedness of the latter. However, recent evidence from the resource sector in some developing countries suggests that the state is actively involved in framing the social responsibilities and practice of business, in a way that could be characterized as 'beyond voluntary'.

This paper investigates how and why governments use both regulatory and extra-juridical pressures to influence what are normally considered to be the voluntary contributions of mining firms to local social and economic development that go beyond compliance with regulatory requirements. By examining how changes in the institutional environment that governs mining in Argentina and Peru over the last decade

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(2004–2014) have targeted the social responsibility practices of mining firms, the paper demonstrates that much of what passes for voluntary CSR in this sector is both co-produced by the state and implies the subversion of existing institutional arrangements.

The occurrence of this phenomenon is examined within a political economy of state–firm relations. First, the paper defines the co-production of CSR by the state seen in these case studies and distinguishes it from the broader literature on political corporate social responsibility (PSR), which examines the relationship between CSR and politics. Second, I argue that the 'beyond voluntary' approach to CSR, examined in this paper, is a special case of the obsolescing bargain, that responds to the incentives and constraints engendered by institutional environments that formally restrict policy flexibility. Governments in Latin America that liberalized and deregulated their resource sectors in the 1990s to attract new investment in mining, faced a classic obsolescing bargain problem by the early 2000s, when new problems (inadequate regulation that engendered social conflict and environmental externalities), and new incentives to capture mining rents (rising commodity prices) could no longer be adequately addressed within the scope of these rules. Governments that were unwilling or unable to violate the letter of the liberal legal frameworks to which they had previously subscribed, chose to work around these constraints by intervening in the voluntary commitments of mining firms to achieve their policy objectives. Indeed, it was exactly the *voluntary* and *informal (unregulated)* nature of CSR activities by firms that made them vulnerable to manipulation by governments. The result was that the state moved to co-produce with corporations the desired behaviour in taxation, community relations and development, through direct but often informal interventions that pushed CSR 'beyond voluntary'.

Institutions, bargaining and corporate responsibilities

The classic relationship between the state and the firm, in which the former defines by its absence, the property space for the latter's social responsibilities, is normally thought to apply to the mining sector. Indeed, the modus operandi since the 1990s for much of the world, and particularly for Latin America, included liberalization of the regulations governing the sector, in exchange for an implicit commitment from firms to apply best practices in environmental and social management, with the expectation of increased growth, export diversification and economic development (Bridge, 2004, pp. 416–419; Campbell, 2012, pp. 141–142). By the early 2000s, the industry was probably one of the most advanced in terms of social responsibility commitments, as major international firms committed to the highest CSR standards through industry associations and various international codes of conduct (Dashwood, 2012; Gjølberg, 2009, p. 13; Henisz, Dorobantu, & Nartey, 2014; Yakoleva, 2005, pp. 203–227).

By now, it is widely accepted that extractive industries have diverse and material motivations for pursuing CSR: reducing risk, improving reputation, employee satisfaction, institutional learning and competitiveness (Frynas, 2009, p. 116). Nonetheless, company performance is variable: in the worst cases, CSR is little more than public relations, charity and clientelistic relationships; but in the best cases, ongoing and substantive stakeholder dialogue, significant resource transfers and local economic development can achieve genuine broad-based social legitimacy for the project. CSR is an important strategy to reduce if not to eliminate the risk of social conflict resulting from the impact of mining on local agricultural livelihoods, and distributional struggles between actors over mineral 'rents' (Amengual, 2018; Arellano-Yanguas, 2011; Conde &

Le Billon, 2017; Haslam & Ary Tanimoune, 2016). Poor relationships with stakeholders can lower the market valuation of a property, increase the costs of doing business and attract the regulatory attention of the state (Henisz et al., 2014). In this regard, both firms and states that rely on mineral rents have an interest in seeing CSR done well.

Context and concepts

However, the relationship between voluntary CSR and legally mandated obligation has, in fact, never been quite as dichotomous as the catch-phrase 'beyond compliance' implies. The dividing line between the ethical and voluntary, and the legally mandated is in constant flux, changing with time, place and culture (Gjølberg, 2009; Matten & Moon, 2008). As Carroll puts it, what's ethical is 'what has yet to be codified' and 'is in dynamic interplay with the legal' (1991, p. 41). In this regard, CSR activities exist in a kind of netherworld where they are voluntary (performed at the initiative of the company), respond to social norms regarding appropriate and expected corporate behaviour, but are not yet viewed as requiring regulation. As Haufler points out, even if states are not directly involved in regulating firms, the 'shadow of the state', the fear of future regulation, is an important motivating factor for CSR adoption (2001, pp. 20–26).

This problematic has been increasingly recognized in a strand of international business literature known as 'PSR', following a seminal article by Scherer and Palazzo (2011, p. 901). In its broadest conceptualization, political CSR includes 'activities where CSR has an intended or unintended political impact, or where intended or unintended political impacts on CSR exist' (Frynas & Stephens, 2015, p. 485). However, the literature has tended to focus more narrowly on two key relationships: how and why firms assume public or political roles[1]; and how government institutions and policy shape the CSR practices of firms. The second relationship is particularly important for this paper, with evidence coming principally from Europe (Aaronson & Reeves, 2002, pp. 19–21; Albareda, Lozano, & Ysa, 2007; Midttun, Gjølberg, Kourula, Sweet, & Vallentin, 2015; Steurer, 2010; Ungericht & Hirt, 2010). In developing countries, Fox, Ward, and Howard (2002), pp. 4–5 identified four government roles: mandating (minimum standards), facilitating (economic and tax incentives, capacity building, procurement), partnering (with companies, stakeholders) and endorsing (public support).

The key issue for the literature is whether domestic institutions substitute for, or complement, the CSR practices of firms (Knudsen & Brown, 2014; Matten & Moon, 2008; Midttun et al., 2015; Midttun, Gautesen, & Gjølberg, 2006). In countries with long-standing corporatist traditions, like Nordic and Continental Europe, governments are more likely to expect and even mandate companies to contribute to solving social problems (Albareda et al., 2007, p. 394; Detomasi, 2008, p. 812). In the Anglo-Saxon tradition, company-driven CSR adoption tends to substitute for institutionalized stakeholder relationships (Jackson & Apostolakou, 2010, p. 372; Knudsen & Brown, 2014, p. 56). But even mandated CSR policy rarely addresses domestic welfare issues, and is principally 'externalized', focusing on the performance of domestic firms abroad (Knudsen & Brown, 2014, p. 66; Midttun et al., 2015, pp. 481–483, 489). The purpose of these government interventions is to create an enabling environment to 'encourage business to behave in a responsible and sustainable manner' (Albareda et al., 2007, p. 392; also Fox et al., 2002, p. 10; Ungericht & Hirt, 2010, p. 4). In other words, the goal was to increase and improve CSR performance of firms. The 'mandating' described by Fox et al. (2002, pp. 4–5) was limited to establishing minimum standards, and according to Knudsen, rarely included direct governmental 'command and control' of corporate activities (Knudsen, Moon, & Slager, 2015, p. 87).

However, some governments in developing countries have begun to actively regulate CSR activities in ways that depart from the literature cited above. First, the institutional environment is subject to manipulation and change (Silva, 2017), and in this regard, governmental policy on CSR, is not only a substitute or complement for domestic institutions but can also be about *subverting* institutions that no longer reflect the current balance of social power and political interests. Second, the purpose of government policy on CSR is not limited to improving the environmental and social performance of firms, instead CSR policy can serve other political objectives, notably the capture of 'rents' that are not available to the state otherwise. The narrow use of 'mandating' found in the PSR literature fails to capture this broader conceptualization of the political rationale behind CSR policy, or the way in which CSR policy interacts with institutional change.

The 'beyond voluntary' practices identified in this paper constitute a significant step beyond endorsing, facilitating, partnering and even the mandating of minimum standards. Whereas the literature has focused on how CSR policy complements or substitutes for domestic institutions, this paper introduces a third category, arguing that CSR policy can also subvert existing institutional arrangements. In this regard, government intervention in CSR 'beyond voluntary' means that *the state steps in, not to complement, or substitute for the firm, but to reshape institutional constraints and co-produce voluntary activities, with the intention of realizing public policy objectives beyond the improvement of company CSR practices*. In this regard, we want to emphasize that the state is not regulating corporate behaviour in the traditional sense of legislating changes to the rules or formally occupying unregulated spaces of authority in the economy. Instead, it is very much acting informally, even coercively, and bargaining, largely outside of the rules of the game, to change corporate behaviour in spaces that remain, legally, zones of private authority. To date, important contemporary accounts of CSR efforts of mining companies in Latin America have generally neglected the important role of the state in structuring firm CSR programmes (Fairlie & Herrera, 2016; Godfrid, 2016; Ventura & Saenz, 2015).

Theorizing the co-production of corporate social responsibility

What explains the character of this CSR co-produced by the state? What changed to allow the state to insert itself in activities that had otherwise been considered the unique province of the firm? It is the principal argument of this paper, that institutional stickiness, in a context of changing fundamentals of bargaining power, pushed governments towards intervening in CSR.[2] Governments that had a bargaining advantage redesigned informal CSR practices to achieve their public policy objectives, because they could not change the formal rules without significant costs. In this regard, we view the phenomenon of CSR 'beyond voluntary' as best explained through a modified version of the obsolescing bargain model (OBM) that takes better account of institutions. We argue that institutional stickiness and restrictions on bargaining, such as those institutionalized in the 'neo-liberal' era, can have the effect of displacing bargaining to other venues (or institutions) that are not subject to such legal restrictions, when changes to the underlying conditions warrant it.

As the underlying conditions changed to favour a revision of the institutional bargains set in the early 1990s – namely, increases in commodity prices that dramatically increased the profitability of the sector, and the emergence of acute social conflict between firms and communities – governments began to experiment with new ways to manage conflicts, capture rent and promote local development without explicitly undermining those liberal rules of the game that were also thought to establish attractive conditions for private mining investment. It was almost too obvious that governments would look to intervene in those practices that were already considered to be 'beyond compliance' with the basic investment and mining legislation of the 1990s and were legally unregulated. With such an approach, it was possible to increase state oversight and capture additional rents, all the while making the public argument that investor rights remained inviolate. Of course, companies were under great and extra-juridical pressure from governments to accept such interventions, and in this context, CSR moved from practices 'beyond compliance', to practices 'beyond voluntary'.

The theory of the obsolescing bargain that emerged with Raymond Vernon (1971) and Theodore Moran (1975) assumed that each actor – state and firm – wanted to capture a greater share of the benefits of the foreign investment. The model generally assumes that firms initially have the upper hand in bargaining, but once the investment is sunk, power begins to shift towards the government and the bargain 'obsolesces', because it is costly for the company to abandon its investment (Kobrin, 1987, p. 611; Moran, 1975).[3] At this point, the government has an incentive to change the rules of the game in order to extract more benefits from the firm (taxation, linkages to other sectors, use of domestic inputs, local ownership). The classic examples of the obsolescing bargain come from the resource sector in the 1970s and 1980s, and evidence was much weaker, although not inexistent, for its existence in manufacturing (Bennett & Sharpe, 1985; Kobrin, 1987).

However, by the mid-1990s, the OBM had fallen out of fashion. Faced with an observable absence of bargaining as governments adopted liberal economic recipes, researchers increasingly saw state–firm relations as either cooperative, or effectively constrained by corporate risk management, international disciplines associated with the World Trade Organization and international investment agreements (Dunning, 1993; Luo, 2001; Moran, 1998). Attempts to revive interest in the OBM in the 2000s focused on generalizing bargaining to all issue areas affecting the company, and provided few parsimonious predictions (Eden, Lenway, & Schuler, 2005, p. 267; Levy & Prakash, 2003, p. 141; Ramamurti, 2002). Nonetheless, this literature also emphasized the constraints that limited bargaining by considering how the observed rigidity of domestic legislation was related to the emergence of bargaining at other levels of analysis, such as over the content of international investment agreements. In general, this was portrayed as a two-level game in which chronologically prior international bargaining among multiple actors (states, firms, NGOs) limited or framed domestic state–firm bargaining (Eden et al., 2005, p. 266; Levy & Prakash, 2003, p. 137; Ramamurti, 2002, pp. 24–25, 34). It is at this intersection between the fundamentals that encourage bargaining and institutions that were built to constrain it that the explanation for CSR 'beyond voluntary' is found.

Institutions are created to reflect the interests of powerful social groups, and have distributional consequences, benefiting some more than others, and 'locking-in' the consequences of historical shifts in political and economic power (Mahoney & Thelen, 2010, pp. 7–8; North, 1990, p. 6). For institutions to remain relevant over time, they must adapt to changes in the underlying balance of power between the political and social forces that created them (Dietsche, 2012, p. 131; Leftwich, 2000, pp. 168–169; Thelen, 1999, p. 392). In this regard, the balance between effective institutions that ensure 'monitoring and enforcement' of obligations, and their responsiveness to change is fundamentally important (North, 1990; Ahlquist & Prakash, 2010, p. 183). This approach to institutional change is broadly compatible with the OBM which also expects state–firm bargains, which are (institutionalized) agreements over the distribution of rents between these two actors, to evolve with the underlying balance of bargaining power. However, such institutions may also be 'sticky' to the extent that they become, over time, disconnected from the social forces, or balance of bargaining power that existed at the moment of their creation. Such a disconnect should fuel pressures for institutional reform or cause these pressures to be redirected in a way that brings the relationship between institutions and social forces better into alignment.

As noted by Mahoney and Thelen, formal rules are also inevitably 'ambiguous', allowing powerful actors to undermine compliance with them (nonconformist interpretation, violation of the spirit of the laws or a lack of enforcement) and to creatively subvert their purpose, and avoid the 'lock-in' originally intended (2010, pp. 4, 10–13). This allows change in the '"soft spots" between the rule and its interpretation, or the rule and its enforcement' (Mahoney & Thelen, 2010, p. 14). As Verbrugge puts it, 'institutional ambiguity creates opportunities for the renegotiation and contestation of institutional arrangements, and the associated distribution of mineral resource wealth across society' (Verbrugge, 2015, p. 449). Lack of compliance with the rules is perhaps the defining feature developing country institutional weakness and is particularly pronounced in resource-dependent developing countries (Lederman & Maloney, 2007, pp. 8–9; Mehlum, Moene, & Torvik, 2006, p. 1121). As Levitsky and Murillo point out, powerful actors often retain discretion over the enforcement of rules, which expands the options open to them to violate the spirit of the law without changing the letter (2013, p. 101). It is this relationship between sticky institutions that political actors cannot easily reform, and a political context which permits the exploitation of ambiguities in the formal rules, that has allowed the phenomenon of 'beyond voluntary' CSR to occur.

In Latin America during the early-mid 1990s, most countries embraced mining sector liberalization in the hope of stimulating the rapid private sector-led development of these resources, which had stagnated under state ownership in the 1970s and 1980s. The reforms reduced state involvement while turning the development of the sector over to private and mostly foreign firms, 'constitutionalizing' (see Gill, 2002) these changes through various legal mechanisms that made it difficult for political actors to roll back the reforms, in whole, or in part. It is worth recalling the political–economic context that justified radical policy reform in the 1990s: low international mineral prices combined with high country political risk (due to economic instability and recent transitions from authoritarianism) that made it necessary to offer incentives and guarantees in exchange for the risky, large-scale long-term investments that characterize the mining industry (see Emel & Huber, 2008, pp. 1397–1398). Indeed, this legal framework, which was adopted across the developing world, was seen as essential for private development of the sector (Campbell, 2012; World Bank, 1992).

However, three factors introduced change into this modus operandi in the early 2000s: rising commodity prices; the increasing occurrence of acute local social conflict at mine sites; and political change in Latin America, as left-leaning governments swept to power. After 2003, rapid increases in commodity prices fed a wave of resource nationalism worldwide, which created incentives for governments to change the rules of the game on taxation and royalties to capture a larger share of mineral rents for the state (Haslam & Heidrich, 2016). An increasing number of firm–community conflicts in Latin America, related to both environmental and distributive concerns, showed that many firms were not able to manage community relations, in the absence of state involvement (Arce, 2014; Bebbington, Bury, & Gallagher, 2013; Bridge, 2004; Haslam & Ary Tanimoune, 2016). In Latin America, the progressive governments that came to power as these two dynamics were consolidating, saw the potential for using mineral rents to fuel their legitimacy through social programmes, development and political transformation (Gudynas, 2016).

These pressures, in varying degrees of intensity, were found throughout the Latin American region, where most governments were also constrained by a sticky set of rules on royalties, taxation and investor rights, inherited from the neo-liberal period. In terms of the framework used in this paper, this meant that the institutions associated with the reforms of the 1990s, which reflected the relative weakness of the state's bargaining power at the time, were increasingly disconnected with the interests and bargaining power of state actors by the mid-2000s. Governments that wished to repudiate this institutional framework ran the risk of discouraging foreign investment. Governments that either could not reform the existing institutions or were not prepared to risk the foreign capital inflows that were developing the sector, sought maintain the façade of the formal institutions, while exploiting their newfound bargaining power in the 'ambiguities' of the rules. In this regard, the stickiness of Latin American institutions, and in the case of the regulatory framework for mining, its disconnect from the interests of powerful and emerging social forces, contributed to non-compliance with the formal institutional framework, and the displacement of bargaining from formal to informal venues in which newly influential social actors faced fewer constraints on the exercise of bargaining power. In other words, the failure to change the neo-liberal legislation and its distributional consequences, led some governments to seek rents outside the formal institutional framework, by intervening in the informal and 'voluntary' social responsibilities of mining firms.

Cases and method

The mining sector is a good case to examine the intersection between bargaining, institutions and the CSR commitments of firms, especially in Latin America, which has emerged as one of the most important laboratories for the study of resources and its politics. The region's historical overreliance on natural resource exploitation has long provided intellectual grist for research on dependency and underdevelopment (Galeano, 1973; Moran, 1975). More recent approaches to resource dependence have focused on localized social conflict (Arellano-Yanguas, 2011; Bebbington et al., 2013); protest and policy reform (Silva, 2017); neo-extractivism (Gudynas, 2016; Nem Singh, 2014), resource nationalism (Haslam & Heidrich, 2016), and CSR (Fairlie & Herrera, 2016; Godfrid, 2016; Ventura & Saenz, 2015).

Indeed, as previously discussed, the sector is a 'most likely' case for both the occurrence of bargaining and the adoption of high levels of CSR commitment by mining firms. However, neither OBM nor CSR theory predicted the 'beyond voluntary' phenomenon described here: the displacement of state–firm bargaining to the informal commitments of firms, the subversion of existing institutional arrangements and the co-production of CSR practices by firm and state. In this regard, we observe and seek to explain a much more complex political economy between CSR, government policy and institutions than addressed by the political CSR literature's focus on policies and practices that complement or substitute for domestic institutions.

To examine how institutions have interacted with CSR to co-produce 'beyond voluntary' activities, the paper compares two country cases, that vary on the level of institutional analysis, and the reasons for institutional rigidity. In Argentina, we examine three provincial jurisdictions (Catamarca, San Juan and Santa Cruz) that are broadly comparable, being the site of major foreign mining projects, having a sparse population, low institutional quality, with a relatively underdeveloped manufacturing sector and fiscally dependent on mineral rents and federal–provincial financial transfers (Gervasoni, 2010; Haslam, 2016). The federal–provincial division of powers in Argentina, in which provinces have regulatory power over the sector, but are constrained by federal legislation in key aspects of how they capture rents, allows us to clearly distinguish between two levels of institutional stickiness, in which provincial governments face an extremely rigid institutional structure at the federal level, while disposing of considerable flexibility associated with weak institutions and uneven enforcement at the provincial level. In Peru, we examine policies at the national level, which is both responsible for regulating the sector, as well as all policy relating to the treatment of investors, taxation, distribution of rents and economic development. In Peru, policy rigidity is caused by both legal 'tax stability contracts' signed with investors, and the political influence of mining firms and their sectoral association.

Despite these notable differences between the cases, and variation in specific 'beyond voluntary' practices, we find that the logic of co-production of CSR is remarkably consistent and accords with the modified obsolescing bargain theory advanced in this paper. The research methodology was organized according to 'structured focused comparison' (George & Bennett, 2005). Field research was carried out between 2011 and 2014, involving open-ended stakeholder interviews at the federal and provincial levels, with political, bureaucratic, business and civil society representatives (see Appendix 1).

Argentina

As in other countries of the region, mining legislation was significantly reformed and liberalized in the early 1990s, as the government of Carlos Menem (1989–1999) abandoned relatively unsuccessful state-led efforts to develop the sector and sought to make the private sector its driving force (Moori Koenig & Bianco, 2003, p. 7). In the mining sector, the federal government set the basic framework of investment promotion and protection (including the Mining Code), but application of the law and regulation of the sector, including environmental protection, was delegated to the provincial level (Prado, 2005, p. 12). Legislation negotiated with the provinces created incentives for private investment in mining through guarantees of fiscal stability (at the federal, provincial and local levels), tax exemptions and federal–provincial agreement on royalty rates and the sale of provincially held mineral reserves (Álvarez & Composto, 2013, pp. 231–235). For example, Law 24,228 (Federal Mining Agreement) required provinces to auction their 'reserved areas' of prime geological potential to the private sector. Law 24,196/1993 (The Mining Investment Law) provided tax stability for 30 years, double deduction of exploration expenses and accelerated amortization for new investments, elimination of import duties on capital goods and 'stamp' taxes, and capped provincial royalties at 3% of 'mine-head' value (Moori Koenig & Bianco, 2003, p. 8; Prado, 2005, p. 14. The rights and property of foreign investors were protected by law, and by the vast network of bilateral investment agreements signed over the decade that enabled companies to sue the federal government in international arbitration tribunals for damages should their treaty rights be violated.

In this regard, the federal legislation established a rigidly sticky framework defining the rents that were available for capture by provincial administrations, but which could not be easily altered by those same provinces. Indeed, the legal framework governing the sector was explicitly viewed as constraining the ability of poor provincial administrations to demand excessive rents from mining companies, as these provinces had a long-standing tradition of rentier behaviour and clientelistic politics (Eaton, 1999, p. 5; Gervasoni, 2010, p. 306; Haslam, 2016, p. 1150). Additionally, Argentina in the mid-2000s, as a latecomer to the large-scale mining industry, faced an influential and national social movement diametrically opposed to the development of its mineral resources. Originating in local opposition to a foreign gold mining project on the outskirts of Esquel, Chubut, the movement culminated in provincial bans on open-pit mining (and the use of certain toxic chemicals) in several provinces (Claps, 2016).[4] In this context, pro-mining provincial administrations were under considerable social pressure to demonstrate the value of mining projects to constituents.

Consequently, provincial administrations considered that there were additional rents to be captured from mining activity, and economic development to be promoted, despite the federal legislation that formally prevented them from doing so. As previously indicated, provincial administrations faced an extremely rigid institutional structure (limitation of royalties to 3% of mine-head value and tax stability over all three levels of government) over which they had no direct control, at the same time as rising commodity prices, increases in proven reserves under their jurisdiction, and substantial sunk investments by mining firms objectively increased their bargaining power. With potential bargaining over royalties and taxes frozen by federal statute, the bargaining advantage of the provincial administrations was redirected via informal but weighty conversations with foreign companies, control of the environmental licencing process, direct political influence over voluntary contributions by the firm, and, in some cases, participation in the legal ownership of mining projects (joint ventures). For the most part, these interventions to extract more rent, and foment better development outcomes were targeted on the 'voluntary' (informally institutionalized) practices of foreign mining firms.

Informal, but weighty conversations

The federal authorities had limited influence over mining companies, given that regulatory responsibilities in the sector fell to the provinces. Consequently, the federal authorities promoted good CSR practice, together with the national business association (CAEM – *Cámara de Empresarios Mineros*), but for the most part, these promotional efforts had few teeth (Interview #12ARBS11; Interview #8ARBS11; Interview #24ARBS12). Instead, it was at the provincial level that informal discussions with companies about their contribution to social responsibility and community development had the most weight. At this level, authorities and industry associations engaged in informal conversations with mining companies to encourage best practice in CSR.

These conversations occurred at the highest political levels, often with the Minister of Mines of San Juan, but also at the operational and local levels. For example, in San Juan Province, the provincially owned enterprise, IPEEM (*Instituto Provincial de Exploraciones y Exploitaciones Mineras*), reported informal conversations with company executives about CSR goals (Interview #30ARSJ12). Similarly, the local business association, the *Cámara Minera de San Juan* (CMSJ), informally promoted CSR to its membership, but at the time of interviews (December 2012), did not have a formal CSR policy (Interview #26ARSJ12). In the other provinces, similarly informal but weighty conversations were held, especially involving governmental departments that ultimately held regulatory power over mining companies, or provincially owned companies that had leverage over foreign partners through joint ventures. These conversations were unlikely to produce substantive results in themselves, but it is notable that these discussions suggesting larger voluntary contributions by the firm to CSR and local development were reproduced inside of provincial institutions that had an de facto (if not legal) right to sanction the firm for non-compliance or obstruct the development of its project.

Regulatory authority

Unlike many other countries, Argentina established environmental legislation specifically for the mining sector shortly after introducing mining reforms (Velasco, 1999, p. 2.2). The legislation required the provinces to create regulatory agencies and established an environmental licensing process. Environmental impact assessments (EIAs) were approved by a provincial committee that integrated various stakeholders and was mandatory for all mining projects (Interview #8ARBS11). This licensing system conferred immense bargaining power on provincial administrations.

The importance of the EIA to 'social licence' (Calvano, 2008), and the quasi-regulated character of the stakeholder consultation, made it a favourite target of 'beyond voluntary' measures. Governments and civil society organizations sometimes saw the dialogue associated with the EIA as an opportunity to bargain for more rents and benefits (Jaskoski, 2014). EIAs typically included commitments from firms to remediate the environmental externalities of their investments. In many cases, these commitments included a wide range of social and developmental commitments that had nothing, strictly speaking, to do with the environment, but which more generally compensated the population for damages associated with the mine (Interview #87CLTA13). In other words, the EIA process which required stakeholder dialogue, was used as tool of hard bargaining by the state, especially since the government had to approve the EIA for the project to move forward.

In this respect, the government of San Juan used the EIA process of consultations with stakeholders to leverage voluntary commitments of the mining companies to infrastructure development. EIA declarations constituted a sworn commitment by the company to a series of undertakings, and the firm could be sanctioned for noncompliance. The government engaged the company in informal conversations about its expectations, and ultimately required, through the EIA, that companies agree to preferential hiring of locals and purchase of provincial goods and services, as well as the creation of a mine-specific Trust Fund (*fondo fideicomiso*) for infrastructure development in the impact zone of the mine.

The mine-specific Trust Funds were an innovation of the provincial government of San Juan that was subsequently copied by other provincial administrations in Argentina.

The province asked that the company commit to a 'voluntary' donation to establish a fund. The specific amount was originally 1.5% of gross value of the metal exported, without deductions (generally equivalent to the value of the 3% royalty, with deductions). Strictly speaking, the Fund was unrelated to the royalty rates, and was portrayed as a voluntary and 'an extra contribution, a good faith contribution' (Interview #8ARBS11). Nonetheless, it should be clear that the San Juan government used the EIA process to double its fiscal take of mining rents. Since the agreement was ostensibly voluntary, it did not violate the federal legislation that capped royalties at 3% of mine-head value, or guaranteed tax stability for 30 years across all three levels of government.[5] The Trust Fund was overseen by an Administrative Committee composed of the Governor, the Minister of Mining, a representative of the company, the provincial mining industry association, and the mayor (*intendente*) of the municipality where the mine was located (Interview #32ARSJ12). This committee decided how to invest the fund in local infrastructure projects in the company's zone of influence.

Community development activities have historically been the unique province of the company. Typically, the company decides how to support the local community with charitable donations and buys or employs in the community if doing so fits with the profit logic of the firm. By using their administrative role in the Trust Funds, governments sought to channel those voluntary CSR funds destined for community development in a way that fit with their broader developmental plans or served the political objectives of the provincial administration. These projects, in recent years, included the construction of a micro-hospital, sports complexes, solid waste treatment plants, potable water networks, roads and bridges, and electrical connection to the national generating network. These funds were often partnered with government commitments at the provincial and federal levels (Interview #28ARBS12). The province's ability to approve or deny the EIA was the principal source of its bargaining power with companies.

State enterprise and the co-production of CSR

Another lever for co-producing CSR in the Argentine provinces was state-owned enterprise (SOE). San Juan created the SOE IPEEM (*Instituto Provincial de Exploraciones y Exploitaciones Mineras*) in the early 1990s to manage the province's mineral reserves and transfer (auction or directly contract) them to third parties with the technical and financial capacity to exploit them (Interview #30ARSJ12). Not all exploitable deposits were found in previously reserved areas, but where they were, IPEEM, as owner of the deposit, 'accompanied' private companies in obtaining the necessary permits from the state. IPEEM contracts required payment of the mining canon, development of an exploration and work plan, as well as the payment of a 'right of exploration'. This 'right' was a minimum of 0.75% of the royalty, but an interview with an IPEEM executive indicated that companies did offer to pay more, when they were competing with others to exploit the deposit. IPEEM principally used that revenue to self-finance, but it also used it to collaborate in CSR projects with the companies in their zone of influence, such as asphalting a road with Barrick Gold, and building an aqueduct in the town of Jáchal with Yamana Gold. The contracts with IPEEM also included general frameworks for CSR activities, which included the goal of preferentially hiring local labour from the zone of influence, and working to improve health, transport and education (Interview #30ARSJ12). In other words, the province of San Juan used its ownership of provincial reserves of prime geological property to leverage extra taxes and CSR commitments on foreign mining companies.

However, San Juan had not gone as far as other provinces to create SOEs with significant participation in new mines, such as Fomicruz (*Fomento Minero de Santa Cruz*) in Santa Cruz province and YMAD (*Yacimientos Mineros de Agua de Dionisio*) and CAMYEN (*Catamarca Mineria y Energetica*) in Catamarca.[6] Fomicruz, the provincial mining company in Santa Cruz, similarly to IPEEM, leveraged its ownership of 'reserved areas' transferred to the province in the early 1990s, into participation in joint ventures with foreign mining companies. Private companies bid for the rights to explore and exploit these areas, principally through offering an additional royalty on production and an ownership stake for the SOE. The terms of the exploitation contracts between the state and the private firms also committed the latter to local employment targets and preferential purchasing from provincial suppliers. For example, in its contract with Cerro Vanuardia S.A. (owned by AngloGold Ashanti), Fomicruz received a royalty on production additional to the 'official' royalty, a 7.5% ownership stake in the company (entitlement to profits) and set local employment targets. Although AngloGold Ashanti was the operator, Fomicruz contributed CSR ideas to Cerro Vanguardia S.A., and promoted the cause of increasing local employment, purchasing and supplier development (Interview #38ARSJ12). Fomicruz also used its ownership of reserves to leverage other associations with other companies in Santa Cruz province, in which similar CSR objectives were promoted.

However, the degree of influence that SOEs have over the CSR activities of their private-sector partners is not always clear. YMAD, with operations in Catamarca, is the only mining company among Argentina's provincial SOEs to operate a wholly owned mine as well as have a joint venture with foreign firms. YMAD contributed financially to the CSR activities of its joint venture, Minera Alumbrera, in accordance with its ownership stake (20%), but decisions on CSR were taken by the controlling shareholder Glencore (formerly Xstrata). YMAD executives rejected the idea that their SOE pressured Minera Alumbrera on its CSR practices (Interview #96ARBS13). However, the relationship between YMAD and its foreign partner was complicated by the SOEs ownership structure which was a joint venture between the provinces of Catamarca, the University of Tucumán and the federal government.

In fact, the failure of YMAD to unambiguously serve the interests of Catamarca led the province to create another SOE in 2012, CAMYEN, following the model of Santa Cruz's Fomicruz, with the purpose of increasing the province's take of mining rent and contributing to local economic development. As a CAMYEN executive put it: 'One thing is clear, the experience of this province has shown us that if the state doesn't petition, solicit the companies…', they do not contribute to local economic development (Interview #47ARCA13). While CAMYEN did not own mining reserves in the same way as Fomicruz, YMAD or IPEEM, which gave them leverage over companies planning to explore and exploit those areas, interviews with company executives suggested the province of Catamarca planned to use the EIA approval process to force foreign mining firms to meet its broader development goals, and to associate with the state in joint ventures (Interview #49ARCA13). In this case, regulatory oversight via the EIA process explicitly substituted for the property rights that normally gave a provincial government bargaining power vis-à-vis a company. As already discussed, provincial regulation of the EIA process was an important tool for provincial authorities co-produce the CSR commitments of mining firms.

These arrangements between the state and private mining companies were seen by the political class as ‘agreed by consensus’ (*consensuado*), even if they occurred by hard bargaining in the shadow of the state and co-produced the company’s social responsibility practices. It should be noted that the government of San Juan explicitly disagreed with the notion that CSR should be left entirely to the corporation. Instead, they organized it around a tripartite model that involved the company, the provincial government and the municipality, which in their view, allowed for better coordination and planning (Interview #28ARBS12). The government’s involvement, and structuring of CSR, evolved out of concerns that the companies were not applying CSR as they should, either in terms of relating to communities, or distributing sufficient benefits to the provincial treasury.

Peru

Peruvian policy on mining is also a good example of how constraints originating with liberal institutional choices of the 1990s, especially on taxes, led to creative efforts by the state to manipulate ‘voluntary’ CSR commitments with the objective of capturing more mineral rent and better serving public policy objectives on regional economic development. Like Argentina, in Peru, legislation from the early 1990s provided a liberal regime for foreign investors that guaranteed the property rights of investors, as well as providing for ‘fiscal stability’ contracts between investors and the state that promised a stable tax burden over a 15-year period. The mining sector also benefited from sectoral incentives for foreign investment, including a profits tax that did not have to be paid until the original investment was recouped; deduction of internal taxes, reinvestment exempted from the profits tax; and accelerated depreciation of investments (up to 20% annually) (Baca, 2014, p. 21).

Despite an important political and economic decentralization process that transferred mining taxes back to the impacted regions, both mining policy and the regulation of mining investment occurred at the national level, where strong industry associations, policy-makers and the powerful mining bureaucracy tended to see the wave of foreign investment in the sector since the mid-1990s as the foundation for a boom in economic development and modernization. In this regard, Peruvian policymakers were hesitant to change the rules of the game in ways perceived to be disadvantageous to mining companies, and companies were successful in lobbying to preserve those regulatory advantages (see Arellano-Yanguas, 2011, p. 622, 2016; Jaskoski, 2014, p. 87). Indeed, the Peruvian state was generally seen as ‘favouring’ companies over other interests, including those of local communities (Interview #110PELI14).

Nonetheless, at the height of the commodity boom, Peruvian politicians faced the dual challenge of popular pressure to revise the country’s generous tax legislation and increase the ‘government take’ as the original bargain from the 1990s obsolesced, and to deal with the problem of rising and acute social conflict between mining companies and peasant communities (Arce, 2014; Bebbington et al., 2013; Ponce & McClintock, 2014). The solution to both problems in a context of institutional rigidity, was a push for companies to spend more on impacted communities by doing more and better CSR. In Peru, a number of policy initiatives emerged to structure companies’ CSR programmes, including the ‘Sworn Declaration’ on Sustainable Development Activities (2003–present, reformed 2010), the Mining Program for Solidarity with the People (PMSP) (2007–2011), popularly known as the ‘Voluntary Contribution’, and of lesser importance because it only affected a few companies, the 'Social Funds' that resulted from the sale of state mining assets to private companies. Between 2007 and 2013, these mechanisms framed approximately 5289 million New Soles ($US 1.78 billion) in social spending, of which 2600 million New Soles ($US 874 million) came from Voluntary Contributions alone (Glave & Ávila, 2014, pp. 6–9).

Formal conversations about CSR

Similar to Argentina, Peruvian policy-makers sought to promote CSR directly to mining firms. However, unlike Argentina at the provincial level, it appears as if the Peruvian political and bureaucratic class was unwilling to sanction mining firms for non-compliance with their voluntary commitments or use the regulatory power of the state as a veiled threat to improve bargaining outcomes. Instead, CSR was promoted through establishing incentives and best practices.

The most important mechanism to promote conversations within companies, and between firms and government, about their social performance was the declaration of voluntary CSR activities, known as the 'Prior Commitment', first required by the Ministry of Energy and Mines (MINEM) in 2003, and modified in 2010 as the 'Sworn Declaration of Sustainable Development' (Glave & Aguila, 2014, p. 6). The latter implied an annual attestation of company performance in meeting its commitments to communities in terms of sustainable development, environmental performance, respect for agreements made with the community and for local customs and institutions, contribution to local employment and economic development, and ongoing stakeholder dialogue (Baca, 2014, pp. 11–12). According to a MINEM representative, the purpose of the regulation was to establish a 'framework' for corporate behaviour. In this regard, the specific questions on the activities of firms identified above were intended to influence behaviour, by requiring the company to consider how it had addressed each issue. Other best practices in CSR were encouraged by MINEM, during a subsequent step of authorizing the use of lands for mining activities. Companies were required to prove their right to use lands, in part through documented agreements with communities on social spending and corporate responsibility. MINEM sought to facilitate this process with an Office of Social Management that shared best practices in CSR with applicants (Interview #117PELI14). Activities identified in the 'Sworn Declarations' constituted approximately 49% of all social spending by companies, over the 2007–2013 period, an estimated 2577 million New Soles (Glave & Aguila, 2014, p. 9).

Voluntary Contributions

The Voluntary Contributions programme is the most interesting of the Peruvian policies from an institutional perspective. As indicated above, efforts in Peru to change the existing 'bargain' to capture more rents for the state during the commodity prices boom faced legal and administrative challenges. Efforts to implement a 2004 royalty law, and President Alan García's (2006–2011) campaign promises to levy a windfall tax on the sector effectively failed due to legal challenges from foreign mining companies that argued that these measures violated the tax 'stability contracts' they had signed with the Peruvian state (Arellano-Yanguas, 2011, p. 621; Baca, 2014, pp. 23, 30). As a result, and as an alternative to higher taxes, the government negotiated a five-year agreement with companies protected by stability contracts, to commit 3.75% of net profits to funds that administered the Voluntary Contributions, while companies already paying the royalty contributed less (Baca, 2014, p. 24). The legislation that implemented the agreements underlined the programme's 'voluntary, extra-ordinary, and time-bound' character (Baca, Gutierrez, & Gamonal, 2012, p. 9), but the end result was a 'voluntary' increase in CSR contributions, negotiated in the shadow of broader political and social pressure to increase taxation on the sector.

The Voluntary Contributions engineered an important increase in CSR spending by mining companies in their impact zone, as well as structured the nature of company CSR activities. Civil society organization Oxfam América estimated that the programme was a 'cash grab' that would increase CSR contributions from around 600 million (2001–2005), to an estimated 2500 million (2006–2010) New Soles (Oxfam, n.d. [2007], p. 28).

By law, non-profit organizations or Trust Funds were set up to collect and administer the resources at both the local and regional (state) levels, while projects were selected by each fund's multi-stakeholder committee, known as the Technical Coordination Committee (CTC). The CTC was composed of representatives of the company contributing to the fund, civil society and authorities at the district, provincial and regional levels. The execution of development projects financed under the auspices of the Voluntary Contribution funds was frequently contracted to NGOs or companies (Baca & Ávila, 2010, pp. 11, 16, 19). Additionally, spending on works, programmes and projects was aligned with national development priorities, which required a certain percentage of the funds to be spent on key themes identified by the state, such as combatting poverty, malnutrition (of children and mothers); primary education; health; institutional capacity and management; and productive development of small enterprise (Baca, 2014, p. 30).

Despite the creation of independent and non-profit organizations to run the Voluntary Contribution funds, the reality was that the administration of the funds and their spending was closely tied to company interests. Baca, Gutierrez and Gamonal point out that the president and majority of members of the CTC were drawn from the company, and that the CTC essentially played an advisory function to the company-appointed board of directors of the non-profit organization that administered the fund (2014, 12). Moreover, the company defined the geographical working area of the fund (Baca et al., 2012, p. 9).

While certain companies already had 'gold standard' reputations for CSR and community relations in Peru, such as Minera Antamina (Xstrata, BHP, Teck and Mitsubishi) (Kotchwar, Moran, & Muir, 2011, p. 52), others seemed to learn from being legislated to do CSR. Certainly, the programme created a dynamic for companies to ramp up spending extremely rapidly, often beyond the capabilities of existing corporate CSR staff to assess quality. The difficulty of identifying and managing good projects led even Peru's largest mining company Antamina to bring in NGOs such as CARE and *Caritas* to run the projects, with the former focusing on small subsistence farmers and maternal health, and the latter on nutrition and milk production (Interview #105CLSA14; Interview #115PELI14). But it was also clear that the Voluntary Contributions programme led to experimentation with new CSR ideas, further developed CSR responsibilities and skills in many companies (Interview #105CLSA14; Interview #108PELI14). CSR managers interviewed for this study generally viewed the programme well and lamented its demise in 2011, although most reiterated the challenges of rapidly ramping up social spending. Voluntary Contributions was replaced by a programme known as Infrastructure for Taxes as commodity prices fell, which saw companies deduct the cost of building public infrastructure from their tax bill, and which was viewed as more favourable for companies. The industry association SNMPE (*Sociedad Nacional de Minería, Petróleo y Energía*) also saw the Voluntary Contributions programme as a learning opportunity for companies, which added knowledge and experience to existing corporate CSR departments (Interview #114PELI14; Interview #118PELI14). A government official with MINEM described the programme as being particularly effective in companies without prior well-established CSR practices:

> they had to dedicate a large part of their efforts and their man-hours to creating associations, trust funds, dedicate people, train people, to be in greater contact with the population… it served to change the perception and paradigm of some companies who otherwise thought the social theme wasn't their business. (Interview #117PELI14)

Strictly speaking, the Voluntary Contributions was a tax, but as reported by *Grupo Propuesta Cuidadana* (GPC), a civil society organization tasked with evaluating the programme, in practice its implementation was indistinguishable from company CSR programmes (at least for the recipients of the social spending) (Baca & Ávila, 2010, p. 45). Indeed, from its earliest accounts on the progress of the programme, GPC reported that most mining firms failed to distinguish on their webpages between their independently funded CSR projects, and those financed by the Voluntary Contribution (Baca & Ávila, 2010, pp. 17–19). By the conclusion of the programme, GPC found that 46% of companies failed to provide sufficient information in their formal reports (as required by law) to distinguish between the Voluntary Contribution and their independently funded CSR spending (Baca et al., 2012, p. 9). Finally, GPC suggested that in practice Voluntary Contributions and CSR were substitutes for each other: for those companies compelled to participate in the programme, truly voluntary CSR spending was lower (Glave & Ávila, 2014, p. 11). Lack of clarity between the domain of voluntary activity by the company, and the domain of the state led to activist criticism that companies were taking over the responsibilities of the state (Bebbington, Scurrah, & Chaparro, 2013, p. 29; Interview #121PELI14; Interview #122PELI14).

Structured dialogue

Finally, in Peru, the state under the government of Ollanta Humala (2011–2016), organized and presided over dialogue roundtables (for active conflicts) and development roundtables (preventative), as a way of managing the acute social conflicts between mining companies and local communities which were generalized across the Peruvian territory, and had proven extremely disruptive of new mining investment. Of particular importance was the creation of the cabinet-level Office of National Dialogue in which the state convened the stakeholders involved in high-profile social conflicts.

The purpose of these dialogues was to arrive at an agreement that allowed mining to proceed, but the path to consensus usually involved structuring the CSR contributions of the mining firms, especially in the 'development' roundtables. The development tables were originally created within the Ministry of Energy and Mines to avoid conflicts by working out investment programmes with companies, local and regional governments. Observers suggested that at the very least, the drawing up of CSR obligations in the dialogue tables pressured companies to contribute more to CSR (Interview #108PELI14), although most were doubtful that it would contribute to better development efforts by companies. Indeed, most civil society organizations saw the 'development roundtables' as unbalanced roundtables that benefited the strongest and most institutionalized actors, namely the company, at the expense of communities (Interview #113PELI14; Interview #116PELI14; Interview #121PELI14). The industry association, SNMPE, however, saw the state-sponsored dialogue as a 'mechanism of strong pressure' that substituted a contractual agreement on social spending for the normally voluntary practices of CSR (Interview #114PELI14).

Interestingly, company CSR executives generally had a favourable view of the state's co-production of CSR – an executive called it 'shared social responsibility' (Interview #109PELI14). Interviewees from all sectors in Peru (companies, academia, government, civil society organizations) unanimously agreed and deplored that companies had taken on the social responsibilities of the state in many isolated rural areas. As a result, companies, such as Antamina, were interested in bringing the state in to effectively fulfil its institutional functions and provide services – even jointly (Interview #1115PELI14). In this regard, concertation with the state, through mechanisms of co-production of CSR (such as the Voluntary Contribution, and the 'development roundtables') was viewed by some corporate observers, not only as structuring the company's CSR contribution, but also as bringing the state in to remote rural areas to play its proper role of delivering essential services and infrastructure.

Conclusions

This paper examined government intervention into ostensibly voluntary practices of CSR in the mining sectors of Argentina and Peru. The paper describes policy efforts that differ from previously identified government roles of endorsing, facilitating, partnering or mandating, and constitute more complex relationships with existing institutional arrangements than recognized by the political CSR literature. On the one hand, these interventions in company CSR practices did not mandate minimum standards, so much as constitute hard bargaining over the distribution of benefits from foreign investment, backed by the coercive and extra-juridical power of the state. On the other hand, these interventions were intended to subvert 'sticky' institutions that no longer reflect the current balance of social power and interests.

We believe this practice is best explained through linking the obsolescing bargaining model with recent theoretical approaches to institutional change. We argue that when institutions and their distributional implications are excessively sticky, to the extent that they cannot accommodate pressures from powerful actors for change, then these pressures may be redirected from formal institutions to more flexible informal institutions. In the case of mining in Argentina, we argue that institutional rigidity associated with the lock-in of liberal rules on mining and investment and the federal–provincial division of powers, meant that as bargaining power shifted towards the provincial state and pressure grew to renegotiate the original bargains of the 1990s, these pressures could not be accommodated by formal institutional change. The central government of Peru also found itself institutionally constrained in its ability to extract rent from mining companies by both legislation, fiscal stability contracts and policy-makers' belief that a good investment climate was crucial for continued economic growth. In both countries, governments used their bargaining advantage to affect the informal and voluntary aspects of the firm's relationship to the state and society – namely, its CSR commitments, and in doing so, successfully captured more rent, and achieved public policy objectives.

The limits of this explanation in time and space must also be considered. Incentives for the state to intervene in the CSR practices of mining firms to capture more rent were greatest during the high point of the commodity super cycle (2007–2009) and declined thereafter. Similarly, the dynamic identified in this paper depends on rigid institutions that constrain policy and the weak rule of law that can be exploited by powerful political interests – a combination that is mostly found in developing countries. Nonetheless, other drivers of state intervention in CSR, such as the ongoing problem of social conflict associated with mining projects, and the disjuncture between 'sticky' institutions and new political and social pressures that cannot be formally accommodated are likely to continue to push government intervention into unregulated, or informally regulated spaces such as co-producing the 'voluntary' practices of CSR.

Notes

1. On the first relationship, researchers point to the consequences of globalization, which, it is argued, has led to a weakening of the regulatory authority of the nation-state, an increase in issue areas characterized by governance gaps, and a crisis of moral legitimacy for corporations (Scherer & Palazzo, 2011, pp. 902, 907, 2007, pp. 1108–1109). In this context, firms engage with political processes, and voluntarily assume 'state-like' roles and functions, including the governance of global problems, the provision of global public goods (Scherer & Palazzo, 2011, p. 900; also Crane, Matten, & Moon, 2004, p. 109).
2. Of course, institutions are by definition 'sticky', but here we refer to a kind of rigidity that prevents either purposeful thorough-going institutional reform, or which prevents the institution from effectively adapting to changes in the underlying balance of social power.
3. The outcome is affected by their relative bargaining power (the resources each controls that are desired by the other party and not available elsewhere), strategy (how the investment fits into the firm's and the country's economic strategy), and constraints (the existence of alternatives and pressure from domestic and international actors; Kobrin, 1987, p. 611).
4. Chubut (2003), Córdoba (2008), La Pampa (2007), La Rioja (2007, 2008), Mendoza (2007), Río Negro (2005, 2008), San Luis (2008, Tierra del Fuego (2012) and Tucuman (2007).
5. Although voluntary, the voluntary commitments made by the company are subsequently approved by the provincial legislature as a contract between the state and company.
6. The provincial government was debating the transformation of IPEEM into a state mining company with the right to explore and exploit resources, principally due to the opportunities to earn more rent from its associations with private companies (#30ARSJ12). This initiative floundered as mineral prices fell, and the province's bargaining power declined.

Acknowledgments

The author would like to give special thanks to Florencia Vergara Rossi for her ongoing support for fieldwork conducted on this project, as well as to Flavia Berger Moya, Camila Andrea Le-Bert Del Campo and Paolo Sosa Villagarcia. The author has benefited from discussions on this paper with members of the Research Group MEGA (Mobilization, Extractivism and Government Action) based at the Centre for Inter-American Policy and Research (CIPR), Tulane University.

Disclosure statement

The author declares that he does not have a conflict of interest related to the content of this paper.

Funding

This study was funded by the Social Sciences and Humanities Research Council (SSHRC) of Canada [grant number 410-2009-0950].

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Paul Alexander Haslam's teaching and research interests span both international development and international political economy. Current research focuses on corporate social responsibility, social conflict between mining firms and nearby communities, state-firm relations (particularly Argentina, Chile and Peru), and the international regulation of foreign direct investment in Latin America.

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Appendix 1. Interviews cited.

Code	Date	Institution	Type of organization	Interviewee	Location
#8ARBS11	09 08 2011	Dirección Nacional de Minería, Government of Argentina	Government	Director	Buenos Aires
#12ARBS11	16 08 2011	Dirección Nacional de Minería, Government of Argentina	Government	Coordinator	Buenos Aires
#24ARBS12	20 11 2012	CAEM (Cámara Argentina de Empresarios Mineros)	Business Association	Media Relations	Bs.As.
#26ARSJ12	27 11 2012	Cámara Minera de San Juan, Province of San Juan	Business Association	Executive	San Juan
#28ARSJ12	27 11 2012	Ministerio de Mineria, Government of San Juan, Argentina	Government	Minister	San Juan
#30ARSJ12	28 11 2012	IPEEM (Instituto Provincial de Exploraciones y Exploitaciones Mineras), Province of San Juan	State-owned enterprise	Executive	San Juan
#32ARSJ12	29 11 2012	Municipality, Province of San Juan	Municipal government	Mayor	San Juan
#38ARSJ12	05 12 2012	Fomicruz, Province of Santa Cruz	State-owed enterprise	Executive	Rio Gallegos
#47ARCA13	25 02 2013	CAMYEN (Catamarca Minera y Energetica), Province of Catamarca	State-owned enterprise	Executive	Catamarca

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Code	Date	Institution	Type of organization	Interviewee	Location
#49ARCA13	26 02 2013	Secretaria de Estado de Mineria, Province of Catamarca	Government	Political	Catamarca
#87CLTA13	15 07 2013	SEA (Servicio de Evaluacion Ambiental), Government of Chile	Government	Director	Talca
#96ARBS13	01 08 2013	YMAD (Yacimietos Mineros de Aguas de Dionysios)	State-owned enterprise	Executive	Buenos Aires
#105CLSA14	23 05 2014	Anglo American	Mining Compay	Manager	Santiago
#108PELI14	26 05 2014	CEPES (Centro Peruano de Estudios Sociales)	Academic instituiton	Academic	Lima
#109PELI14	27 05 2014	Minera Buenaventura	Mining Company	Executive	Lima
#110PELI14	17 05 2014	Office of the Ombudsman, Government of Peru	Government	Executive	Lima
#113PELI14	29 05 2014	CooperAcción	Civil society	Executive	Lima
#114PELI14	29 05 2014	SNMPE (Sociedad Nacional de Minería, Petroleo y Electricidad)	Business association	Manager	Lima
#115PELI14	29 05 2014	Minera Antamina	Mining company	Executive	Lima
#16PELI14	02 05 2014	Red Muquí	Civil society	Executive	Lima
#117PELI14	03 06 2014	MINEM (Ministry of Energy and Mines), Government of Peru	Government	Legal Counsel	Lima
#118PELI14	04 06 2014	SNMPE and Perú2021	Business association and civil society	Executive	Lima
#121PELI14	06 06 2014	Oxfam América	Civil society	Manager	Lima
#122PELI14	07 06 2014	Grupo Propuesta Cuidadana	Civil society	Executive	Lima