MINING FOR SOLUTIONS, EXTRACTING DISCORD:
CORPORATE SOCIAL RESPONSIBILITY AND
CANADIAN MINING COMPANIES IN LATIN AMERICA

by

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ABSTRACT

While the mining industry generates many benefits to society, the industry has in some cases had a detrimental impact on affected communities. This paradox, manifested in the unequal distribution of costs and benefits amongst stakeholders, has prompted widespread scrutiny of the mining industry. Critique of the industry has questioned whether mining provides an economically, environmentally and socially sustainable model of development. Mining companies are increasingly adopting Corporate Social Responsibility (CSR) to address the industry paradox, and to thereby ameliorate the industry’s reputation, productive prospects, and societal impact. This paper examines how, and to what effect CSR has been implemented by Canadian mining companies operating in Latin America. A case study of Glamis Gold/Goldcorp’s operations in Guatemala illuminates industry and CSR trends, observable elsewhere in Latin America. Despite the redeeming qualities of many CSR initiatives, CSR alone is not the panacea for solving the industry paradox and achieving sustainable development.

Keywords: mining; corporate social responsibility; sustainable development; Latin America
To my parents
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ICDP  Integrated Community Development Program
ICMC  International Cyanide Management Code
ICMM  International Council on Mining and Metals
IIED  International Institute on Environment and Development
IFC  International Finance Corporation
IFI  International Financial Institutions
ILO  International Labour Organization
IRD  Involuntary Resettlement Directive (World Bank)
MARN  Ministerio de Ambiente y Recursos Naturales
MEM  Ministerio de Energía y Minerales
MIGA  Multilateral Investment Guarantee Association
MMSD  Mines, Minerals and Sustainable Development
MSI  Multi-Stakeholder Initiatives
MSN  Multi-Stakeholder Negotiations
NGO  Non-governmental Organization
PCDP  Public Consultation and Development Plan
SDMS  Sustainable Development Management System
SRI  Socially Responsible Investment
TSF  Tailings Storage Facility
WBCSD  World Business Council on Sustainable Development
WBG  World Bank Group
WCSD  World Council on Sustainable Development
1: INTRODUCTION

The extractives industry exhibits a paradox. While the extraction of minerals, oil and gas provides immense benefits to society at large, in many instances the industry has had a detrimental presence, and has generated an unequal distribution of costs and benefits. This imbalance is particularly evident in the context of foreign direct investment in the mineral resources of less developed countries. Throughout the process of mineral extraction, the benefits have often accrued disproportionately to the shareholders and management of international mining companies, and to the consumers who have access to mining products. Seldom adequately consulted by their national government or by foreign mining interests, the communities affected by mining projects are left to bear the cost of economic, social, and environmental externalities. Controversy, and company-community conflicts stemming from this paradox, have spawned widespread critique of industry practices.

Heightened scrutiny has brought the discourse of “Sustainable Development” to the extractive industry. To be ‘sustainable’, development must be equitable within and between generations, and must prove to be economically, socially and environmentally viable in the long-term. As a development paradigm then, sustainability is the antithesis of the paradox that sees costs and benefits disproportionally meted out between companies and communities, industry and ecology, present and future. A multitude of actors,
including company executives, shareholders, industry associations, governments, international financial institutions, non-governmental organizations, advocacy networks, and international institutions have engaged in a re-examination of the extractives industry within the context of sustainable development. They have questioned whether, and how, natural resource extraction is compatible with sustainable development.

Corporate Social Responsibility (CSR) has emerged as a strategy through which mining companies can address the industry paradox, and thereby ameliorate the industry’s reputation, productive prospects, and societal impact. This paper examines how and to what effect CSR has been implemented by Canadian mining companies operating in Latin America. Drawing on a case study from Guatemala and less detailed accounts of experiences of Canadian mining companies elsewhere in the region, the study concludes that CSR is a necessary yet insufficient strategy for addressing the industry paradox.

Chapter two provides a definition of sustainable development, explaining the relevance of this concept to the extractives industry. The third chapter is an overview of mining as a vital industry, focusing on its significance to the economies of Canada and Latin America. A discussion follows on the benefits and costs that mining operations generate. Chapter five explains the term Corporate Social Responsibility, and how this concept has assumed a prominent position in industry activities. Chapter six describes how CSR is being

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1 While this paper focuses on Canadian companies, occasional reference will be made to other companies when it serves to illuminate community-corporate relations, or an example of exemplary/ poor corporate accountability.
implemented by the extractives industry, while Chapter seven provides a closer examination of the dimensions of CSR, through a case study of one company: Goldcorp Inc.

The CSR record suggests that these initiatives have a necessary presence in the absence of trilateral (corporate-community-government) collaboration. As a business philosophy and strategy, CSR has played a critical role in shifting companies towards more sustainable policies and practices. CSR is an invaluable approach if companies are to have a positive impact on societies and lessen the environmental, economic, and social costs historically associated with mining. However, many factors limit CSR from achieving the lofty principles touted on corporate websites and envisioned by the declarations of international organizations. Despite the redeeming qualities of many CSR initiatives, CSR alone is not the panacea for solving the industry paradox and achieving sustainable development.
2: SUSTAINABLE DEVELOPMENT

In December 1987 the United Nations General Assembly welcomed a report entitled *Our Common Future*, prepared by the World Commission on Environment and Development (WCED). The Commission, established only three years prior and informally known as the Brundtland Commission, reflected a concern for “the accelerating deterioration of the human environment and natural resources and the consequences of that deterioration for economic and social development.” The report made an appeal for “sustainable development”: development that satisfies present-day needs without compromising the capacity of future generations to satisfy their needs. The Commission urged that governments, the United Nations, private institutions, organizations and enterprises adopt sustainable development as a central guiding principle. Development, explained WCED, was about meeting basic needs and providing opportunities for a better life. Yet economic growth alone would not be enough: “sustainable development requires that societies meet human needs both by increasing productive potential and by ensuring equitable opportunities for all.” While the emphasis was undoubtedly on the biosphere, the social component was recognized as a key factor in sustainable development, for

physical sustainability cannot be secured unless development policies pay attention to such considerations as changes in access to resources and in the distribution of costs and benefits. Even the

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2 UN General Assembly, 42nd Session, Agenda item 82e
narrow notion of physical sustainability implies a concern for social equity between generations, a concern that must logically be extended to equity within each generation.\footnote{Brundtland Commission, \textit{Our Common Future}, 1987}

Since the inception of the now famous Brundtland definition, sustainable development has assumed a prominent position in both global dialogue and daily press.

Sustainable development is particularly salient in the context of transnational extractive companies operating in developing countries. These activities have a tremendous capacity for generating costs and benefits to stakeholders in the present and future. They have significant implications for economic development. Oil, gas, and mineral extraction in Latin America typically occurs in impoverished and/or remote areas. The very nature of resource extraction is environmentally transformative, and necessarily affects present and future generations. These projects also imply a meeting of industrialized and traditional economies, and an encounter between different cultures, visions of development, systems of governance, and notions of property and resource management. The course of development is determined largely by a variety of actors: local communities (citizens and leadership), the state (national government), the company (employees, executive and shareholders), civil society (including local and national NGOs and transnational advocacy networks), and international agencies.

The World Bank Group and International Development Research Centre provide a summary of what sustainable development entails within the context of
the mining industry. They maintain that while there are often substantial social and economic benefits to communities from mining, these benefits do not come automatically. The WBG and IDRC describe sustainability as follows:

Sustainability in the mining sector means that mineral wealth should be maintained from one generation to another, and non-renewable resource development does not threaten the environment or renewable resources upon which future livelihoods depend. Sustainability is the recognition that mining will affect the social structure and culture of local people, and the consideration of these impacts during decision-making. Policy and taxation should consider the economic health of the mining industry, and the industry should utilize the natural resource base efficiently, with efforts to reduce, reuse and recycle. Sustainable mining finds a balance between environmental protection and economic growth, with due consideration to all possible costs and benefits.⁴

Many mining companies now express a commitment to sustainable development. One such example is the sustainability policy instituted by Placer Dome in 1998:

Sustainability means the exploration, design, construction, operation and closure of mines in a manner that respects and responds to the social, environmental and economic needs of present generations and anticipates those future generations in the communities and countries where we work. We are committed to demonstrating that through this policy we can contribute to long-term improvements in quality of life while acting as stewards for the environment.⁵

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⁴ WBG and IDRC, *Large Mines and the Community: Socioeconomic and Environmental Effects in Latin America, Canada, and Spain.* (2001)

⁵ Placer Dome Inc., 1998, as quoted in Hilson and Murck
What perhaps lies near the core of the company-community conflicts that Latin America has witnessed in recent decades is the difference between sustainable development, and sustainable mining development. Is mining conducive to economic, social, and environmental sustainability? If – as some critics would contend – mining is innately unsustainable, can it become sustainable through a proactive, integrated, inclusive approach? The descriptions of sustainable development offered by the WBG and Placer Dome presume that mining activity is a given, while the Brundtland definition allows that mining may not constitute part of a sustainable development vision. Mining companies may embrace “sustainable development” by enhancing community relations, providing local employment, and initiating policies and practices to safeguard the environment. Meanwhile, many communities – or segments of communities – do not believe mining to be compatible with their vision of development, and maintain they have a right to reject mining companies. The profound divergence of perception is evident when corporate accountability favours mitigation over prevention. It is evident when community members favour confrontation over compromise. It is present in many of the challenges discussed in the concluding chapter, and explains why stakeholders report incongruence between rhetoric and reality.
3: MINING: A VITAL INDUSTRY

Humans have extracted metals and minerals from the earth for thousands of years. These non-renewable resources are indispensable to economic activity, and have been an enduring aspect of the development of human societies. Metals and minerals are intrinsic to modern life, constituting elements of communication, transportation, industrial, residential, and energy systems and infrastructure. The mining industry provides essential inputs for the global economy; value-added industries depend on materials produced by the sector. As populations adopt new consumption patterns, require different technologies and demand higher standards of living, so too will the extraction and utilization of the earth’s resources proliferate. The growth of emerging economies such as China, India, Brazil and Russia, suggests that global demand for metals and minerals will only continue to increase.

The mining industry occupies a fundamental space in the lives of Canadians. Cognizant of this relationship or not, Canadians – as individuals and as a nation – both contribute to and are impacted by the mining sector. Extractive industries as a whole are a significant dynamic in citizens’ quotidian activities, in the national economy, and in Canada’s position within the international community. Canada is a leader in the global mining industry. This is a sector in which Canadians have developed and disseminated technical, managerial, and scholarly expertise. Canada has extensive history as a mineral exporting country.
Within Canada, mining continues to be a significant generator of products and employment, through extraction, manufacturing, and multiplier effects. The estimated value of total production in Canada’s mining industry reached a record $40.7 billion in 2007.\(^6\) The extractive industry provides 19% of Canada’s total exports, and in 2007 contributed $42 billion to Canada’s GDP. In 2006, through corporate income tax, personal income tax, and royalties, industry payments to the government totalled $8.1 billion.\(^7\)

Canada is also a ‘mining exporting’ country, with Canadian-owned and Canadian-headquartered operations around the world. A favourable legal climate and a wealth of human capital in the sector combine to make Canada an attractive base for mining companies. According to Natural Resources Canada, Canadian-listed companies have interests in more than 8000 mineral exploration and development properties, located in over 100 countries.\(^8\) The Toronto Stock Exchange facilitates 80% of global mining financing, and 60% of the world’s mining companies are listed on the TSX.\(^9\) The Canadian Pension Plan invests millions of dollars in publicly traded mining companies, including $153 million in Kinross, $349 million in Goldcorp, and $739 million in Barrick Gold Corp.\(^10\)

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\(^7\) Mining Association of Canada, *Contribution of the Mining Industry: A Positive Message to Canadians*, (February 2009)

\(^8\) Natural Resources Canada, *Canada’s Minerals and Metals Key Facts*.

\(^9\) *The Dominion*, Winter 2008 – Issue #55

\(^10\) CPP Investment Board, *Statement of Public Equity Holdings*, (March 31, 2009)
activity. Canada joins the United States, the United Kingdom, and Australia as a preeminent player in international mining interests. Many mining projects around the world are owned by a consortium of these industry leaders.

In the past two decades one region in particular has garnered the interest of international and multinational mining companies: Latin America. This region underwent a rapid expansion of the mining sector in the 1990s, spurred by a variety of factors. Higher commodity prices and liberalizing reforms in Latin American countries created a more favourable investment climate, accompanied by tightened regulations and less feasible project sites in North America. Latin America accounted for 12% of global mining investment in 1990; this number had risen to 30% by 2000.12

Canadian companies have been at the helm of this shift, spending more, between 1995-1999, on mineral exploration in Latin America than in any other part of the world.13 Exploration by Canadian mining companies in 2005 accounted for over 37% of exploration in Latin America, and Canadian companies owned more than 1,300 mineral properties in the region.14 The government of Canada has actively negotiated free trade agreements in the Americas, and mining investments have been central to these accords. These agreements create a legal, financial, and regulatory environment that is hospitable to foreign direct investment and the capitalization of natural resources. Bilateral agreements with countries such as Chile, Peru, and Colombia facilitate

11 Natural Resources Canada, Canada’s Minerals and Metals Key Facts.
Canadian investment in the extraction of these countries’ rich mineral reserves. Canada played a key role in the re-writing of Colombia’s mining code from 1997-2001, providing funding for Colombian lawyers, and lending the expertise of the Canadian International Development Agency and the Canadian Energy Research Institute. Between 1993-2003, Canada was the largest investor in Chilean mining, investing over $4 billion during that decade.\textsuperscript{15} The Fraser Institute’s annual Policy Potential Index, which rates the attractiveness of a country’s mining policy for investment, consistently places Chile among the top ten ranking countries.\textsuperscript{16} Canadian investors have also been at the forefront of Mexico’s burgeoning mining industry. Mexico ranks second – after Canada - as the country where Canadian companies are most active in mineral exploration. At the end of 2008, the larger-company mineral exploration market in Mexico was valued at US$717 million, with Canadian companies representing 73% of that market.\textsuperscript{17} Ecuador’s mining industry is poised for development, though mineral extraction is pending. Over 25 Canadian-financed companies are undertaking mineral exploration in Ecuador, and Canadian capital comprises 90% of investment in the country’s incipient industry.\textsuperscript{18} These examples illustrate the extent of Canadian interest and involvement in Latin America as a site of mineral extraction.

\textsuperscript{15} Clark, (2006), p.100
\textsuperscript{16} Fraser Institute, \textit{Annual Survey of Mining Companies}, 2008/2009
\textsuperscript{17} Natural Resources Canada, \textit{Overview of Trends in Canadian Mineral Exploration}, 2008, (2009), p.43
\textsuperscript{18} \textit{The Dominion}, Winter 2008
4: BENEFITS AND COSTS OF THE MINING INDUSTRY

4.1 Benefits

The significant presence of transnational mining companies inevitably entails benefits and impacts for the Latin American region.

4.1.1 Economic Development

The mining industry is a potential vehicle of economic development, and Latin American economies remain desperate for economic growth. The United Nations Human Development Index indicates gradual improvements in standard of living in Latin America. However, malnutrition, unemployment, illiteracy, and inadequate access to medical care and other services remain widespread throughout the region. Economists widely acknowledge that economic growth is necessary for the alleviation of poverty. Governments and businesses alike recognize the capacity of the extractive industry to stimulate the growth of national and local economies. For developing countries, foreign direct investment in mining is an important source of foreign exchange earnings and taxation revenue. Mining generates employment, and foreign companies most often provide higher wages than local employers. Mining investment offers opportunities for private sector development, for example, through skills training, the promotion of small-and-medium-scale enterprises, and local contracting of supplies and services. The mining industry can facilitate technology transfer, and the development of human and social capital.
4.1.2 Filling a ‘Responsibility Vacuum’

It has been common for Latin American central governments to have a limited presence in society, leaving a governance niche that may be assumed by other actors. Particularly when mining companies have operations in remote regions, the state’s withdrawal from the local renders the company a ‘surrogate State’. To provide for the necessary operational inputs and to establish good relations with the community, companies frequently introduce services and infrastructure not delivered by the government. Company contributions to the community often involve the installation and improvement of local roads, water systems and power supplies. Other common projects include education, medical facilities and access to health services, recreational amenities, and resources for cultural events and celebrations. The expectations and dependency that can accompany this relationship may, however, have negative ramifications for both company and community.

4.1.3 Environmental Best Practices

Foreign-owned mining operations occur in regions newly-opened for mineral extraction, or in areas where mining is a traditional economic activity. In the latter case, artisanal-small-scale mining (ASM) is an important rural livelihood, yet has a detrimental impact on the environment. This paper discusses environmental impacts mainly in relation to large-scale projects undertaken by transnational companies. However, it is important to emphasize that these projects are by no means the sole or original perpetrators of environmental damage. Environmental risks are endemic to mining as an activity,
and ASM has a notoriously negative impact on human and ecological health. These harmful practices have persisted because the State has lax environmental regulations or enforcement, because ASM, as an informal economic activity, is not subject to monitoring mechanisms, or because the miners themselves lack the resources, knowledge, and capacity to implement alternatives. The International Institute for Environment and Development (IIED) states that ASM has been responsible for

- mercury pollution, direct dumping of tailings and effluents into rivers, threats from improperly constructed tailings dams, river damage in alluvial areas, river siltation, erosion damage and deforestation, and landscape destruction.\(^{19}\)

Such damages illustrate why sustainable development must be a process that incorporates all stakeholders. Where ASM is practiced, or where regional and national governments fail to enact environmental safeguards, foreign companies can disseminate the more progressive technologies and environmental standards of their source countries.\(^{20}\) Transnational companies are in a position to provide leadership by demonstrating, facilitating, and transmitting more ecologically-sound policies and practices.

### 4.2 Risks and Costs

#### 4.2.1 Business Risks

While mining companies have the potential to impart positive benefits to the regions in which they operate, their primary legal and financial obligation is to

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\(^{20}\) In this paper ‘host country’ refers to the country where mineral extraction occurs, and ‘source country’ refers to the country in which international companies are based.
maximize shareholder profits, and it is not without certain risks that they undertake projects in Latin America. A central challenge is the high cost of mineral exploration and mine development. The mining industry has a low profit margin, averaging 5%. Mining projects are exceedingly expensive, and to undertake such ventures companies must raise money from investors. Companies rely on debt financing from banks and frequently must secure political risk insurance. The volatility of commodity prices is a liability for recouping investment costs and meeting financing obligations. Isolated sites present logistic and infrastructure challenges. Despite time-consuming and costly inputs, exploration yields uncertain and often disappointing results. Studies suggest that only one out of every 500-1000 properties drilled for core samples will reveal a deposit with sufficient value to mine. Furthermore, companies must obtain multiple licenses and permits.

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21 Directors manage the business and affairs of a corporation. Canadian corporate law (Canada Business Corporations Act, Section 122) states that “Every director and officer of a corporation in exercising their powers and discharging their duties shall (a) act honestly and in good faith with a view to the best interests of the corporation; and (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.” In corporate law, ‘the best interests of the corporation’ is predominantly interpreted as shareholder primacy. Delaware jurisprudence has emphasized the fiduciary duty of directors to maximize shareholder profits. (For background on the precedent-setting debate, see Bratton and Wachter [2008]). The Supreme Court of Canada’s 2008 ruling in the BCE Inc. case illustrated the space for interpretation. The Court analysed directors’ duties in the context of a transaction that favoured shareholder interests over bondholder interests, and reasoned: “There are no absolute rules and no principle that one set of interests should prevail over another. In each case, the question is whether, in all the circumstances, the directors acted in the best interests of the corporation, having regard to all relevant considerations”. (Tory and Cameron, [January, 2009])


23 Political risks are factors that can reduce the value of a firm, or restrict an investor’s ability to use and benefit from assets. These risks, frequently associated with government actions, may include breach of contract, restrictions on foreign exchange conversions, nationalizations, war and other civil strife damages.

24 Poliquin (2004), p.25
4.2.2 Economic and Social Costs

Many costs are born by the land and the people in mining regions. Companies have initiated exploration and development without free, prior, and informed consent of local communities, leading in cases to forced relocation or acquisition of lands dedicated to subsistence and traditional economic activities. Projects have taken the form of top-down exploitation, rather than multi-stakeholder partnerships that incorporate the needs and interests of all those implicated. Jobs anticipated by locals have not materialized. The presence of a mine can compromise people’s ability to pursue traditional livelihoods, especially when these economic activities require resources that are altered by mining, such as soil, aquifers, and aquatic ecosystems. Mining revenues do not always find their way back to the community, and such recompense is meager in light of the social and environmental costs that the community must bear.

The boomtown atmosphere created by mining frequently includes social problems, such as substance abuse, prostitution, and disease. Locals who resist development have experienced repression of dissent, manifested in threats, promises, slander, divisive tactics, bribery, violence, kidnappings and even death.

International mining companies are not development agencies nor are they political representatives of the populations impacted by mining activity. It is neither the objective nor the responsibility of the company to grow the economy of the country in which they are operating. As Hilson and Murck explain, mining management invests “knowing that it is a temporary project that will function only
as long as it is economically viable to extract and process mineral from ore.”

Thus, in situations where the company has become a ‘surrogate State’ in the mining region, mine closure will have problematic consequences for the community. When the company vacates, the community members can be left without services on which they have come to depend.

4.2.3 Environmental Costs

The environmental consequences of mining will here receive some elaboration in order to elucidate two features that are central to the issue of CSR and the extractive industry: why environmental consideration is such a key component of contemporary mining operations, and why the mere proposal of mining activity elicits opposition from community elements, and becomes a volatile topic.

Mining transforms the landscape in which it occurs. Most mining projects now involve open pit mines, which are more efficient and cost-effective than underground mines. Open pit mining generates more waste than does underground mining, requiring the excavation of large quantities of soil and surface rock, called “overburden”. During the process of mineral extraction, the actual minerals sought by companies comprise only 2% of the total material extracted. Of the remainder, 50% is waste rock, 44% is tailings, and 4% is slag.

Tailings are the waste product of mineral extraction, made up of treated ore and

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27 North et al. (2006), p.97
waste rock. The treatment and storage of tailings is a carefully engineered component of modern mine construction. However, companies and communities remain vigilant of the potential environmental impacts of tailings, due to a legacy of irresponsible tailings disposal.\(^{28}\) The shifting of so much earth matter also contributes to erosion, sedimentation, and the generation of dust that pollutes the air. Mining requires vast quantities of water. Extractive processes therefore put stress on local reserves, and have been responsible for the diversion and depletion of surface and groundwater supplies.

Chemicals are frequently used in mining, particularly during the process known as heap leaching, an efficient method for extracting the desired metal from ore. In the extraction of gold for instance, ore is crushed and then sprayed with cyanide. The cyanide bonds to the gold, facilitating removal from the residual ore. The gold and cyanide are then separated in a chemical process. Cyanide can contaminate the surrounding area by way of spills, leaching, leaks in tailings ponds, and irresponsible discharge of effluents. Cyanide is rapidly absorbed through the skin, and is most dangerous when inhaled. Even small quantities of cyanide are hazardous. The lethal dose for humans is 0.5-1.0 mg/kg., and fish are particularly sensitive to cyanide, able to tolerate a concentration of 0.05 mg/litre.\(^{29}\) With exposure to sunlight, cyanide breaks down in water. Indeed, mining companies utilize solar exposure to mitigate pollution.

\(^{28}\) The Omai gold mine in Guyana provides a vivid example of the environmental damage wreaked by tailings ponds. Operated by Canadian company Cambior, the mine’s tailing dam failed in 1995, releasing 3 billion cubic litres of tailings into the Omai River. Cyanide concentration in the river surpassed lethal levels of contamination, and Guyana’s president declared the region an Environmental Disaster Zone. (Farrell et al, [2004])

\(^{29}\) Cai, Zhengwei, in The Encyclopedia of Toxicology (2005), p.698
These breakdown compounds - including nitrate, ammonia, and carbon dioxide -
are less toxic, but still cause harm to aquatic environments. Mercury is widely
used in ASM but large-scale mining projects have curtailed the use of this
chemical.\textsuperscript{30} Mercury still poses a threat in the form of non-biodegradable methyl-
mercury, a vapor released into the atmosphere through industrial processes.

Mining’s most frequent and damaging form of environmental disruption is
Acid Rock Drainage (ARD). Also known as Acid Mine Drainage, this is a
naturally-occurring process, greatly exacerbated by human activities that
necessitate upheaval of the earth. AMD occurs in active, abandoned, surface
and underground mines, and emanates from overburden, development rock, and
tailing heaps and ponds. AMD happens when sulfides in rock are exposed to
oxygen and water, producing sulfuric acid. The acid generation and low pH water
accelerate the dissolution of heavy metals, including copper, zinc, lead, arsenic,
mercury, cadmium, cobalt, and selenium. The sulfuric acid and heavy metals
leach into streams, lakes, and groundwater, degrading water quality,
compromising ecosystems, killing aquatic life, and posing a health threat to the
humans and animals in the area. Acid will continue to leach from the source rock
as long as the rock remains exposed to air and water, and as long as there
remain sulfides in the rock.\textsuperscript{31}

\textsuperscript{30} This is not to say that mercury is no longer of concern to large-scale mining operations. One
well-publicized incident was the mercury spill that occurred in 2000 near the town of
Choropampa, Peru. A truck from the (American-owned) Yanacocha mine spilled its load of
mercury. Locals, not understanding the hazards of the material, collected the mercury. 400
people were eventually treated for mercury poisoning. (Farrell et al., Glennie, North et al.)

\textsuperscript{31} Durkin and Herrman, \textit{Focusing on the Problem of Mining Wastes: An Introduction To Acid Mine
Drainage}. (1994)
While many companies express commitment to the development of technologies and practices that reduce environmental impact, present and future generations must deal with the consequences of waste-handling decisions made in the past. The mining industry faces the double challenge of developing solutions to problems of mine waste created in the past, as well as avoiding such problems in the future.

In the context of mining companies operating in Latin America, the benefits and costs described above have weighed heavily in favour of the foreign companies. Representatives of many mine-affected communities believe they have neither been consulted on, nor compensated for the impacts of mineral extraction on their region. The allegations of mining opponents suggest that communities have socially, environmentally, and economically financed the profits of mining companies.

Canadian companies are implicated in the extractive industry’s poor distribution of benefits and costs. This was expressed in 2005 by the Canadian parliament’s Subcommittee on Human Rights and International Development, in its third report to the Standing Committee on Foreign Affairs and International Trade. The Subcommittee reported that

[Canadian] mining activities in some developing countries have had adverse effects on local communities, especially where regulations governing the mining sector and its impact on the economic and social wellbeing of employees and local residents, as well as on the
environment, are weak or non-existent, or where they are not enforced.  

4.2.4 Portrait of the Paradox: a Snapshot of Mining Controversies

As foreign direct investment in mining has increased throughout Latin America, so too has community resistance to transnational mining companies. Whether through public, private, national or international ventures, the negative experiences of communities affected by mining have conspired to generate distrust and opposition towards mining projects. This resistance has manifested in many Latin American countries, expressed in protests and roadblocks, community plebiscites rejecting mining, and regional and national coalitions of peoples affected by and opposed to mining projects. Several examples serve to illustrate the character of company-community conflicts in the region.

Yanacocha, Peru’s largest and most productive mining project, has been embroiled in controversy since the project was developed in 1993. Locals claim that they were misinformed about the project, and that the mine has resulted in social dislocation, water contamination, diminished water supplies, and exacerbated poverty. A federation of women’s organizations reports a 20% increase in family problems since the mine opened.  

Protests against the

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33 FEROCAFENOP, Federación de Rondas Femeninas del Norte del Peru. (Cited in Langdon, 2000)
mining company and expansion of operations have involved thousands of citizens, police violence, and charges of terrorism.34

Also in Peru, Compañía Minera Antamina’s promises to address community concerns earned widespread community approval for development of the Antamina copper-zinc project. Relations soured between the company and community alongside a growing perception that the company had deceived the people. Stable employment did not materialize, plans for local development dissolved, and the company – without notifying the Community Relations department – abandoned its land-for-land resettlement scheme in favour of a more expedient cash-based resettlement. The piecemeal resettlement did not compensate all who had relied upon the land for livelihood, goods, and housing. Those who were compensated lacked the means to invest productively, and believed that they had traded a long-term productive property for a one-time payment whose value had depreciated on account of local inflation.35

Similar issues vexed the Tintaya copper mine in Espinar province. Residents dislocated by the project waited more than twenty years to be resettled. They complained of lost livelihoods, contaminated water, divided families, and human rights abuses. The affected indigenous communities formed

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34 Langdon, Shanna, Peru’s Yanacocha Gold Mine: The IFC’s Midas Touch?, (September 2000); Confederación Nacional de Comunidades del Perú Afectadas por la Minería, www.conacami.org; Lucien Chauvin, Latin CEO: Executive Strategies for the Americas, All That Glitters… (June 2000).
an alliance with Peruvian and international NGOs to pursue their case against BHP Billiton.\(^{36}\)

When residents of Tambogrande learned that Manhatten Minerals planned to develop an open-pit mine in their communities, they formed the Tambogrande Defense Front. They were opposed to a project that would displace 8,000 residents from the urban area, divert the flow of the Piura River, disrupt livelihoods, and potentially contaminate water and soil. Tambogrande is one of Peru’s key zones for agricultural exports, and community members capitalized on this as they lobbied in defense of their development paradigm. In 2001 the community held the world’s first referendum on mining, in which a majority voted against mining development. Despite the result, Manhatten continued with the project. Peruvian officials ultimately revoked Manhatten’s buying option due to the company’s noncompliance with contractual obligations.\(^{37}\)

The Tambogrande referendum became a model for communities elsewhere in Latin America presented with mining projects. The people of Esquel, Argentina, for example, held a plebiscite in 2003 that rejected Meridian’s proposed open pit mine. Robert Moran, a hydrogeologist who reviewed Meridian’s Environmental Impact Assessment, reported

This is the most 'undefined' EIA I have reviewed in more than 30 years of hydrogeologic experience. It certainly would not be acceptable to regulators for comparable purposes in western

\(^{36}\) Glennie, (February 2005)
\(^{37}\) De Echave, Jose, *Canadian Mining Companies’ Investments in Peru: the Tambogrande Case and the Need to Implement Reforms.* (2005)
European countries, the USA, or in Canada... Esquel is the classic example, which is all too common in Latin America, where an EIA describes short-term benefits and solutions, but fails to even begin to consider long-term consequences.38

In 2005, Meridian sued Esquel residents for releasing a 2003 recording of a meeting between company executives and community relations personnel. The tape revealed Meridian’s intentions to conduct a poll under the auspice of the governor’s administration, and to hire residents as ‘opinion leaders’ who would persuade locals to support the mine.39 In 2006 the government introduced a three year moratorium on mining activity in the region.40

Argentina’s largest and most profitable open pit mine has been subject to growing public pressure over its lifetime. Alumbrera gold mine, in Catamarca, has been criticized for toxic waste, ruptured pipelines, fish die-offs, depleted water sources, and intimidation of opponents. Resistance to the mine now spans the project’s chain of operations, which covers five provinces and includes a 140 mile long pipeline.41

Argentina and Chile are both embroiled in a conflict between Barrick Gold and the communities affected by the mine that straddles the countries’ mountainous border. The Pascua Lama project has sparked conflict over

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38 Moran, Robert, Esquel, Argentina: Predicciones y Promesas de un Estudio de Impacto Ambiental Defectuoso. (March 2003)
41 Asambleas de Vecinos Autoconvocados por el NO A LA MINA, www.noalamina.org; Modersbach, (2008)
environmental concerns, land acquisition, cultural expropriation, bribery and community divisions.

In Bolivia, the acquisition of the Amayapampa and Capasirca mines by a transnational corporation created a tense situation that pitted the corporation and the State against Bolivian miners and indigenous people. The latter claimed to be the original owners of the natural resources of their region. Their resistance was portrayed by government officials as a terrorist movement. The corporation defended its right to a concession granted by the Bolivian government. The ancestral practice of *pijcheo* and the mythology of *el Tío*, to which miners adhered, was at odds with the new ownership’s vision of a modern, efficient mining operation. During the conflict, miners occupied the mines, negotiations failed, and miners held hostage a company engineer. The president sent 800 military and police officers to the site, seven people were killed in the violence, and the police kidnapped the president of the Bolivian Permanent Assembly for Human Rights. Bolivia’s new mining code, approved shortly after the Amayapampa conflict began, criminalized opposition to mining concessions granted by the State.

The negative impacts of mining in Honduras have propelled widespread resistance to mining projects in that country, and in neighbouring El Salvador. Pacific Rim, for example, had its permits for a Salvadoran mine suspended due

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42 *Pijcheo* is the chewing of coca leaves, a practice that helps miners tolerate the conditions of the mine, such as altitude, fatigue and hunger. *El Tío* is the mythical patron of the underground, whom miners honour in exchange for protection while mining.

to public opposition and deficiencies in the Environmental Impact Assessment. Pacific Rim reports destruction of property, threats on the lives of its employees, and in 2008 stated its intent to sue the Salvadoran government for lost investments.44

The industry paradox has fomented corporate-community conflicts in many countries of Latin America. Such conflicts obviously have adverse effects for companies as well, which have invested in exploration, project development, concessions, Environmental Impact Assessments, and infrastructure. Community resistance can lead to destruction or expropriation of company assets, and stalled operations. Contradictory development agendas create public relations obstacles, and conflict weakens a country’s investment climate.

Companies are employing corporate social responsibility to navigate beyond tarnished landscapes, reputations, and relations.

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5: THE CASE FOR CORPORATE SOCIAL RESPONSIBILITY

5.1 Terminology

Increasingly, companies are adopting Corporate Social Responsibility (CSR) as a business policy. CSR encapsulates the belief that corporations are responsible not only to shareholders, but to stakeholders both within and outside the corporation. There is recognition that this perceived responsibility is above and beyond the corporation's foundational realm of responsibility. This is evident in the ILO's definition, which describes CSR as 'the voluntary initiatives enterprises undertake over and above their legal obligations'.\(^{45}\) Thus, in addition to the usual financial considerations, CSR is concerned with social and ecological outcomes of business. The so-called Triple Bottom Line\(^{46}\) of CSR is analogous to the economic, social and environmental priorities implicit in sustainable development.

Company engagement in CSR is generally rationalized on moral or business grounds. The moral argument reasons that corporations are not

\(^{45}\) Hopkins, (2007), p.198

\(^{46}\) This term, coined by John Elkington in 1994, refers to the Financial, Environmental, and Social performance of companies.
faceless entities separate from society. Rather, they are comprised of individuals who are capable of making ethical choices and who, as members of society have a responsibility to do less harm and more good. Furthermore, while corporations provide a service to society, they also owe society a debt; in return for benefits such as public expenditures and legal privileges, corporations should honour societal interests when making business decisions. Thus, to serve shareholders’ interests only, is “morally untenable”. While projects in the extractives sector require enormous investments, companies have traditionally been able to externalize many of the social, environmental and financial costs. When society is left to pay the price (for example environmental remediation, loss of agriculture, cultural disruption, substance abuse, health afflictions) these externalized costs in fact constitute ‘hidden’ subsidies.

The business case maintains that there are strong economic incentives for the adoption of CSR. In fact, if companies neglect to incorporate social and environmental responsibility into their business strategy, they will be less viable in the long-term. Essentially, CSR has value as a form of risk management. By

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47 The American Law Institute states that “corporate decisions are not infrequently made on the basis of ethical consideration even when doing so would not enhance corporate profit or shareholder gain. Such behavior is not only appropriate, but desirable. Corporate officials are not less morally obliged than any other citizens to take ethical considerations into account, and it would be unwise social policy to preclude them from doing so”. American Law Institute (1994), p.80-82
48 Eade and Sayer, (2006); O'Faircheallaigh, (2008)
50 Speaking at the Leadership Conference on Global Corporate Citizenship, Anglo-American’s Sir Mark Moody Stuart argued that: “If corporate citizenship were all about brands, spin, and PR, there’s an argument that mining companies simply wouldn’t need to bother. Where is the value in brand enhancement if no-one needs to know who you are?...It makes sense for our business model to recognise the broad range of stakeholders who are affected by what we do. Why? Because there is business value in doing so and there are unwelcome costs in taking a narrow, blinkered approach.” (January 2009)
managing for desirable social and environmental outcomes, companies can not only mitigate but avoid problems that would ultimately be costly. Companies would prefer to work with a national government that offers a favourable regulatory environment and tax regime, honours contracts, and respects the rule of law. Similarly, conditions are more conducive to business when there is not civil unrest, and when companies have earned a ‘social license to operate’ from affected communities. The business case holds that CSR is a crucial tool for reputational management, and companies gain a competitive advantage when they position themselves as ‘first movers’ and industry innovators in corporate responsibility.

Whether for a moral or a business rationale, it is undeniable that the extractive industry has adopted the CSR agenda. A perusal through the websites of mining and minerals companies reveals that the majority express commitment to a principle that is variously described as ‘sustainability’, ‘corporate accountability’, ‘corporate sustainability’, ‘responsible practice’, or ‘sustainable development’. Likewise, annual reports typically comment on the company’s social and environmental impacts and initiatives. What has compelled companies to adopt CSR as a requisite business practice?

5.2 Adoption of CSR

CSR in the extractive industry is located within the global context of heightened public scrutiny of corporations. Recent decades have seen an

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51 Such “unwelcome costs” can include for example, poor health and safety for workers, their families, and community members; environmental clean-up and contamination fees; stalled operations; shareholder concern over irresponsible business practices
expansion of civil society engagement in corporate accountability. Global communication networks have facilitated the dissemination of information and the creation of partnerships. These technological advancements have allowed the concerns of local communities, no matter how remote, to find international audiences. A parallel development has been the rise of the NGO sector, and the subsequent emergence of transnational advocacy networks. By allying with NGOs, communities have gained the capacity to press their issues at the international level. As stakeholders\textsuperscript{52} come into contact with one another, it is abundantly clear that corporations do not operate in isolation. Globalization and economic liberalization have increasingly brought corporate interests and local, communal interests to a head, and have highlighted shifting and conflicting notions of rights and responsibilities. The anti-globalization movement and a series of UN summits reflected a concern for the disparity between corporate profits and freedoms, and poor environmental, labour and social conditions in the developing world.\textsuperscript{53}

Further impetus for the CSR agenda came from a series of highly publicized corporate scandals, environmental disasters, and human rights abuses.\textsuperscript{54} Civil society mobilized around these incidents, demanding reparation, litigation, and an overhaul of regulatory, legal and policy frameworks. Perhaps

\textsuperscript{52} Katherine Trebeck defines stakeholders as “anyone or any organization affected by or able to affect a particular entity”. \textit{Earth Matters} (2008), p.11. This can include employees and other company personnel, local communities, unions, consumers, regulatory bodies, NGOs, shareholders, and international bodies.

\textsuperscript{53} Utting, (2006), p.55

\textsuperscript{54} Among them were the Exxon Valdez oil spill, Nestlé’s promotion of baby formula in Africa, Shell’s activities in Nigeria, and sweatshop conditions utilized by Nike and other apparel manufacturers.
most importantly, the furor called into question the role of business (and corporations in particular) in society, prompting a re-examination of the rights and responsibilities each had with regard to the other. These high profile incidents encouraged civil society actors to be vigilant watchdogs of corporate behaviour, and strengthened corporate resolve to build positive relations with stakeholders and maintain a solid reputation.

A final factor has driven the corporate adoption of CSR principles. Large-scale industrial projects typically require international financing. Banks and IFIs require political risk insurance for their investments. The World Bank’s Multilateral Investment Guarantee Agency (MIGA), for example, is one such provider of insurance. Increasingly, international financiers and investment insurance agencies stipulate that companies must address a community’s social and environmental issues. Given that such projects frequently locate in countries with lenient regulations, companies will often set standards above national requirements in order to qualify for financing.

Corporations are by no means passive objects of criticism. Business has in fact played a proactive role in the promotion and implementation of CSR. High-profile multinational companies have spearheaded CSR initiatives, through sponsorships, partnerships, and changes to management and performance systems. Business and industry associations have embraced the CSR agenda, as have business-related foundations. The financial services sector supports CSR through promotion of socially responsible investing, reporting and certification. The world business community has been involved in the advocacy
and development of governance and regulatory structures. The World Business Council for Sustainable Development, for instance, was originally created by leaders of several large corporations in anticipation of the 1992 Rio Earth Summit. Corporations profess self-regulation. Economic liberalization curtails government intervention and can have positive consequences for sustainable development; free market proponents explain that corporations respond to market and societal signals, thereby setting social, environmental and economic standards to which they self-regulate.

5.3 CSR and the Extractives Industry

The ‘Triple-Bottom-Line’ of CSR is particularly salient for an industry such as the extractive sector. Mining operations are environmentally, socially, and economically transformative. Potentially, the transformations they effect may generate sustainable development outcomes. Historically however, mining projects have failed to achieve development that meets the needs of present or future generations. Instead, all too often they have spelled dire consequences for affected communities by compromising local people’s health, social dynamics, livelihoods, and physical environment.

The industry’s awakening to CSR had a turning point in Papua New Guinea.\(^{55}\) Rio Tinto, which owned a subsidiary in Bougainville, attracted negative publicity after conflict within the mine-affected community triggered a simmering rebellion on the island. Bougainville was a social, political, and environmental

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\(^{55}\) Since the 1970s, international companies had been mining the copper reserves of Papua New Guinea. Locals claimed not to be receiving tangible benefits of the operations, and were suffering instead from a polluted river system.
disaster. The experience compelled Rio Tinto executives to be champions of corporate social responsibility in the mining industry. The company implemented a more progressive approach for indigenous relations, and its chairmen were instrumental in forming the Global Mining Initiative, an industry organization that advances the commitment of mining companies to sustainable development. More recent examples demonstrate the costly consequences of unsustainable management and practices. Canadian company Goldcorp is paying $10.5 million for a 30 year mercury and cyanide clean-up in La Coipa, Chile. In 2007, the under-valued sale of Monterrico Metals in Peru to China’s Zijin Mining Group was evidence of how mining conflict can negatively impact the value of a company.

A strong signal that the extractive industry would need to address the paradox came in 2000, when World Bank President James Wolfensohn commissioned the Extractive Industries Review (EIR). The World Bank was responding to pressure from civil society organizations, which challenged the Bank’s involvement in projects with questionable consequences for host countries and communities. The review would investigate allegations that the EI engaged in irresponsible practices, and would determine whether the EI was compatible with the WBG’s goals of poverty alleviation and sustainable development. Published in 2003, the EIR confirmed that the EI was implicated in human rights abuses, environmental degradation, and social disruption, and that

56 In Breaking New Ground (2002), mining projects in Papua New Guinea are featured as examples of unsustainable mining.
57 Filer et al. (2008); Trebeck (2008)
59 The Economist Intelligence Unit Limited (June 2007)
mineral extraction did not always translate into economic development. However, the review emphasized the potential of the EI to yield benefits to host countries. The EIR concluded that the WBG did have a role in the EI sector, but only if the WBG’s involvement contributed to poverty alleviation and sustainable development, a goal that was contingent on three enabling conditions. Those conditions were pro-poor public and corporate governance, more effective social and environmental policies, and respect for human rights.\(^{60}\)

Another landmark study for CSR in the extractive industry was published in 2002, entitled *Breaking New Ground*. This was the final report of the Mining, Minerals and Sustainable Development Project (MMSD). The study was initiated by nine of the world’s largest mining companies which, in 1999 launched the Global Mining Initiative. Through the World Council on Sustainable Development, the GMI contracted the International Institute on Environment and Development to undertake the project. The MMSD arose out of concern amongst industry leaders for challenges that the industry was facing, particularly with regards to sustainable development. There was recognition that “simply meeting market demand for mineral commodities falls far short of meeting society’s expectations of industry.” The project would respond to the fact that the industry was seen to be failing in its obligations, and “has been failing to convince some of its constituents and stakeholders that it has the ‘social licence to operate’ in many parts of the world.”\(^{61}\) Following the publication of *Breaking New Ground*, the International Council on Mining and Metals (ICMM) introduced a Sustainable

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Development Framework. The framework encapsulates ten guiding principles of sustainable development, to which signatories of the framework must comply.\(^6^2\)

CSR remains a voluntary initiative. In the extractive industry, CSR standards are set by mining companies, industry associations, governments, NGOs, and financial institutions. Existing regulatory frameworks and voluntary measures aim to ameliorate a company’s environmental, social and human rights record. What does CSR look like in the extractive industry?

6: CSR: HOW IS IT BEING IMPLEMENTED BY THE MINING INDUSTRY?

Mining companies’ public commitments to CSR share common features, and – in light of the costs and benefits discussed in Section Four - address the problems that have afflicted the mining industry. Statements of a CSR commitment typically include the following:

- economic, social and environmental considerations
- reference to the well-being of present and future generations
- responsibility/ accountability for the entire lifespan of mine development, from exploration through to production and closure
- engagement and dialogue with affected communities
- recognition of the multistakeholder character of mining
- acknowledgement of local cultures
- reference to ‘sustainability’, in relation to a company’s presence in the community, economic impacts, site management or environmental considerations

Excerpts of statements by two Canadian mining companies serve as an example of these common features. From Barrick Gold’s Corporate Social Responsibility Charter:

At Barrick, we are committed to making a positive difference in the communities in which we live and work... Barrick fully considers social, cultural, environmental, governmental and economic factors when evaluating project development opportunities. In those communities in which we operate, we interact with local residents, governments, non-governmental organizations, international agencies and other interested groups to facilitate long-term and beneficial resource development... Barrick respects the interests of
all members of the communities in which we conduct business and
encourages open and constructive dialogue and interaction with
them... Barrick has a responsibility to protect, reclaim and enhance
the environment on the sites that we operate. We encourage wise
environmental stewardship and diligently apply proven
management controls to achieve this goal... plans are in place to
ensure that the environment is protected for future generations and
that the sustainability of nearby communities is safeguarded.63

From Kinross Gold Corporation’s 10 Guiding Principles of CSR:

3. We promote an ongoing dialogue and engagement with
stakeholders in the communities where we operate, maintained in a
spirit of transparency and good faith.

4. We exercise utmost vigilance in protecting the environment and
seek ways to minimize our environmental footprint wherever we
operate. We will always meet, and where possible exceed,
regulatory requirements in our environmental performance.

5. We consider all aspects of an operation or new project –
including social, environmental, and post-closure issues – in
making our investment decisions.

6. We conduct all of our activities in accordance with accepted
standards in the protection and promotion of human rights. We
respect the cultural and historical perspectives and rights of those
affected by our operations, in particular indigenous peoples.

8. We seek to maximize employment, business and economic
opportunities for local communities from our existing operations and
new projects.

9. We provide lasting benefits to the communities where we work
by supporting sustainable initiatives to develop their social,
economic, and institutional fabric. We recognize that every
community is unique and we work with our community partners to
ensure that our support matches their priorities.

63 Barrick Gold, Corporate Social Responsibility Charter, Available online:
10. We maintain an active engagement and dialogue with our global industry peers, associations, governments, and civil society on CSR best practices and evolving global standards.\textsuperscript{64}

In 2003, Associates for Global Change conducted a study for the World Bank Group as a supplement of the Extractive Industries Review. The study is a survey of EI companies’ social and environmental policies and practices, and the report identifies three categories of company engagement in sustainability. The categories reflect the companies’ level of ‘proactivity’:

1. Companies meet local (often minimal) standards. Companies respond on a project-by-project basis, and may do little or nothing to mitigate environmental or social impacts if local authorities do not require or enforce such practices.

2. Companies meet commonly and/or internationally accepted guidelines, most notably the World Bank Group and IFC guidelines and Safeguard Policies.

3. Companies develop their own “best practice” standards, by going beyond the minimums set by local governments or the WBG to create their own set of principles, policies and practices.\textsuperscript{65}

These categories are useful when considering a company’s level of commitment to a CSR agenda. However, when perusing information that mining companies make available to the public, and when comparing various stakeholders’ perceptions of mining activity, it is clear that companies do not fall strictly into one category or another. Rather, specific policies and practices are indicative of varying degrees, and stages, of CSR engagement. While a given company may submit an Environmental Impact Assessment that does not meet

\textsuperscript{64} Kinross Gold Corporation, \textit{Ten Guiding Principles for Corporate Responsibility}, Available online: http://www.kinross.com/cr/index.html

national standards, the same company may have a progressive and innovative process for community consultation. A company may claim to ‘respect’ or ‘acknowledge’ the principles of a particular international code, yet not be a signatory. A company may receive industry recognition for exemplary rehabilitation efforts at one project site, while communities affected by a separate project are clamouring for mine closure and environmental remediation. Moreover, policies do not always translate into practices. The existence of an environmental management plan, for instance, does not guarantee operational practices that meet national or international standards. Every mining project is unique, subject to site-specific circumstances. Thus, a uniform application of policies is both challenging and unrealistic.

Nonetheless, as with other areas of mining management and operation (i.e. the implementation of new technologies, exploration methods, refining processes, etc.), many companies do not convey a static approach to CSR; they attempt to incorporate newer and improved policies and practices. This is particularly true for industry ‘giants’ that receive a lot of attention from investors, media, and civil society organizations. Successive annual reports of Barrick Gold and Goldcorp, for example, suggest yearly improvements and additions to these companies’ CSR portfolios.

Following is a description of policies and practices by which Canadian mining companies express a commitment to CSR. To demonstrate that CSR is both a multi-faceted and integrated strategy, the initiatives are organized under
three headings: corporate philosophy, corporate management, and on-the-ground operations.

**Philosophy**

As seen in the examples above, companies express a commitment to CSR through their corporate philosophy. Public commitments are manifested in mission statements, codes of conduct, statements of core values and other declarations. These messages are expressed via company websites, annual reports, media releases and other public relations documents. Corporate philosophy is also evident in the international agreements to which a company is signatory, and the international regulatory organizations to which a company belongs. There are many regulatory frameworks at the international level. Several key ones most frequently mentioned on corporate websites include the Equator Principles, Global Reporting Initiative, UN Global Compact, and the Extractive Industries Transparency Initiative. Certifications and awards that a company receives, presents, or references indicate a company’s engagement in CSR. Awards are recognition by government or industry for responsible practice. For example, in 2007, Teck’s Andacollo del Carmen won the John T. Ryan regional safety award for the mine with the best safety performance in Chile. Barrick’s Lagunas Norte received special community recognition for relief efforts following the earthquake in Pisco, Peru. Some common certifications relevant

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66 For a more extensive list, see Appendix.
67 Teck, see http://www.teck.com/Generic.aspx?PAGE=Teck+Sustainability+Pages%2fOur+Performance+pages%2fAwards&portalName=tc
68 Barrick, see http://www.barrick.com/CorporateResponsibility/OurCommitment/Awards/default.aspx
to the EI sector include the International Cyanide Management Code, the ISO 9000 Series certification for Quality Management, and the ISO 14000 Series certification for Environmental Management. Both Barrick and Teck have committed to compliance with the ICMM’s Sustainable Development Framework. Companies are also recognized for CSR when listed on “green” or “socially responsible” stock indices, including the Dow Jones Sustainability Index, and FTSE4 Good Global 100.

**Management**

Corporate management will determine the extent to which CSR principles are carried out in practice. Management translates declared values into operational realities, while also ensuring that on-the-ground operations inform corporate philosophy. An obvious expression of a CSR agenda is when a company has board or senior management positions with environmental or social responsibilities. Teck, for example, has a Vice President for Sustainability and Vice President for Environment, Health and Safety. Similarly, many companies have committees or councils dedicated to environmental stewardship, community engagement, social/ cultural sustainability, and health and safety. Companies host conferences, training, and employee incentives on themes of CSR and sustainability. They communicate their CSR intentions and capacity through the existence of comprehensive plans, systems and strategies for issues such as environmental management, community engagement, and mine closure and reclamation.

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Transparency and dissemination of information to all stakeholders is a management component of a CSR agenda. Commitment to CSR is evident in a company’s reporting, either within annual reports or increasingly through reports dedicated specifically to issues of CSR. Barrick, for example, presents annual Responsibility Reports, Site Responsibility Reports, and a quarterly ‘Responsible Mining Update’, entitled Beyond Borders. Kinross publishes a Corporate Responsibility Report every two years, and presents annual performance data in relation to CSR variables. A key tool of CSR is the submission of necessary and voluntary documents for project approval, including Environmental and Social Impact Assessments, and Human Rights Impact Assessments. Submission of these documents does not in itself speak to a genuine commitment to CSR; the quality and transparency of the content is more indicative of a company’s intentions. Companies demonstrate a commitment to accountability through performance auditing and verification. Auditing may be internal or, to maximize credibility, external, third-party audits. Auditing is exercised for various aspects of a company’s activities, and can include review of Environmental Impact Assessments, Annual and Sustainability Reports, Feasibility Studies, and also on-site inspections, sampling and monitoring of environmental and social indicators. Depending on the legislation and regulations of the host country, some form of audit is usually required for exploration concessions and development permits.

70 Barrick, see http://www.barrick.com/CorporateResponsibility/default.aspx
71 Kinross, see http://www.kinross.com/cr/reports.html
Operations

The realities that transpire 'on the ground' reveal the efficacy of a company’s CSR strategy. First and foremost, companies demonstrate corporate responsibility through compliance with regional, national, and international laws and regulations. Existing regulations concern issues such as property rights, resource concessions, water rights, human rights, indigenous rights, environmental standards, and regional trade agreements. Commitment to CSR is evident when companies engage with the communities in which they operate. Engagement may be defined as ‘a process of contact, dialogue and interaction that ensures all parties of interest are informed and participating in decisions that affect their future, in a way that is satisfactory to them.’ Engagement is essentially the establishment of ‘working partnerships' with local communities. Companies convey efforts to ensure that information is accessible to local communities. To accomplish this, they might utilize print form, translations, audio recordings, circulation in local publications, community meetings and workshops. If companies are committed to sustainable development, they will actively incorporate the local community into economic initiatives. This is demonstrated through education and training, hiring practices, sourcing of materials and services, business creation, and due consideration of local, traditional, and future livelihoods. Companies frequently make philanthropic contributions for local development. Funding of this type is allocated for health, education, infrastructure, recreation, and culture. Another significant monetary indicator of

72 This definition of engagement is from the Prospectors and Developers Association of Canada (PDAC) CSR workshop, recorded in From Theory to Practice: Corporate Social Responsibility and Sustainable Development in Mineral Extraction, by On Common Ground Consultants, 2007
CSR is compensation. Companies may provide compensation for relocation, interrupted livelihoods, and negative impacts of mining on health and the environment. The on-site practices at a mine reflect a company’s investment in CSR. The use of best technologies indicates concern not only for cost-effectiveness, but also for safety, health, the environment, and future land use. Relevant technologies include those for hydro-geological assessments, mineral extraction, treatment and storage of waste material, construction of facilities and infrastructure, and the transport and handling of chemicals and toxins.

These efforts demonstrate how Canadian mining companies have embraced CSR, moving beyond legal responsibilities to shareholders, and committing to social and environmental accountability. These social and environmental commitments speak to demonstrable benefits that foreign mining investment can bring. Despite extensive CSR initiatives by companies, the industry paradox persists. Conflicts continue between communities and corporations. Stakeholders still question whether companies bring more harm or good to the regions and communities in which they operate. A recent expression of this was in February 2009: the Norwegian Pension Fund withdrew its shares from Barrick, after concluding that Barrick's Porgera mine in the Philippines posed an “unacceptable risk of extensive and irreversible damage to the natural environment”. Barrick's CSR initiatives convey a strong commitment to the highest standards of corporate accountability. Yet the Norwegian Council on Ethics declared that

the company’s assertions that its operations do not cause long-term and irreversible environmental damage carry little credibility. This is
reinforced by the lack of openness and transparency in the company’s environmental reporting. Considering the intentions presented by the company with regard to production expansion, the Council finds reason to believe that the company’s unacceptable practice will continue in the future.\textsuperscript{73}

The following case study will demonstrate the lengths to which a Canadian company has incorporated social and environmental considerations into its operations. It will also demonstrate that, despite these measures, mining activity remains controversial. Stakeholders continue to decry the unequal distribution of costs and benefits. Affected communities are not convinced of the economic, social, and environmental benefits that mineral extraction can entail. They claim that, far from being partners in decision-making that affects the development of their regions and the future of their communities, they have been ill-compensated for the negative impacts generated by the presence of foreign mining companies.

7: CASE STUDY: GLAMIS GOLD/ GOLDCORP

At Glamis Gold’s 2006 AGM, a letter was read aloud, addressing the company’s investors and shareholders:

We, as inhabitants of communities directly affected by Glamis Gold's mining activities in Honduras and Guatemala, write this letter to you to inform you of the grave consequences your investments are having. Glamis Gold arrived in our Communities promising development and progress. However, the experiences of our communities clearly demonstrate that the mining activity does not bring development neither to the local population, nor to the country.74

This statement illustrates the disconnect between CSR efforts and some stakeholders’ perceptions of the mining industry. A description of Glamis/Goldcorp’s activities in Guatemala elucidates this disconnect.75

Glamis Gold Ltd. was a publicly held Canadian corporation. In 2002, Glamis acquired the Marlin project in San Marcos, Guatemala, and developed the mine through the wholly owned subsidiary Montana Exploradora de

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75 Occasional reference will be made to Goldcorp’s Honduran project. Glamis acquired the San Martin, Honduras project in 1998 and developed the project through the wholly owned subsidiary Entre Mares.
Guatemala. The Guatemalan assets were ceded to Goldcorp when Glamis and Goldcorp merged in 2006.76

7.1 Goldcorp and CSR

Goldcorp states that corporate responsibility “is at the core of all our business decisions and our way forward will continually be shaped by a balance of social, economic and environmental considerations.”77 Information available through Goldcorp’s website and reporting conveys a commitment to CSR. This commitment will be described in relation to philosophy, management, and operations.

7.1.1 Philosophy

Goldcorp’s 2008 Corporate Sustainability Report contains both a Vision and a Sustainability Vision. The Vision states that: “Goldcorp is dedicated to responsible gold mining practices balanced to promote long-term shareholder value and the health and well being of employees and host communities.”78 The Sustainability Vision is as follows:

Our sustainability vision is to foster the integration of sustainable development principles into our business operating philosophy. We are committed to implementing consistent policies and practices across our diverse group of properties, while recognizing the vastly

76 The titles ‘Glamis’, ‘Goldcorp’, and ‘Montana’ will be used throughout this chapter. Generally, ‘Glamis’ will refer to the company prior to the merger with Goldcorp, and ‘Montana’ will refer to the subsidiary of this Canadian company (Glamis/ Goldcorp) and therefore to the company’s activities specific to San Marcos, Guatemala. However, sometimes ‘Goldcorp’ is used in place of ‘Glamis’; this is because in Goldcorp’s communications, the company prior to 2006 is referred to as Goldcorp, not Glamis.

77 Goldcorp website, CSR Fact Sheet: http://www.goldcorp.com/corporate_responsibility/csr_factsheet/

different environmental, physical and cultural differences that shape each operation. Our sustainability goal is to achieve a balance of economic prosperity, environmental stewardship and social responsibility that extends beyond the economic lives of our mining operations.

In addition to these vision statements, Goldcorp’s Code of Business Conduct and Ethics outlines the conduct and ethics to be followed by company directors, officers, and employees.\textsuperscript{79}

Goldcorp supports several global initiatives for corporate accountability. Since 2007, the company’s annual reports have followed the sustainability reporting framework of the Global Reporting Initiative. In May 2009 Goldcorp signed on to the United Nations Global Compact, expressing a commitment to implement the Global Compact’s Ten Principles with regard to human rights, labour, the environment, and anti-corruption. Goldcorp became a signatory to the International Cyanide Management Code (ICMC) in 2007.\textsuperscript{80} Goldcorp has joined the Carbon Disclosure Project, submitting the first report to CDP in 2007. The Voluntary Principles on Security and Human Rights were introduced at Marlin mine in 2006; the company is contemplating the adoption of these principles at other sites. Goldcorp requires that all sites establish Environmental Management Systems (EMS) that are consistent with ISO 14001 standards. Other global initiatives for which Goldcorp expresses support include the World Bank standards, Equator Principles, Business Principles for Countering Bribery, and the World Economic Forum’s Anti-Corruption Initiative.

\textsuperscript{79} Ibid
\textsuperscript{80} In 2008, El Sauzal mine was the first mine to be ICMC certified in Mexico; Goldcorp expects Guatemalan operations to be certified in 2009.
7.1.2 Management

Management positions, committees, reporting procedures, and systems plans are CSR elements that ensure site adherence to corporate principles. Goldcorp has a Sustainability, Environment, Health and Safety Committee. The committee helps management to achieve the principles laid out in policies that pertain to sustainability, environment, health and safety.\textsuperscript{81} Goldcorp publishes annual sustainability reports for individual sites, and in 2008 released a Corporate Sustainability Report. In 2006 Goldcorp repaid the IFC for the Marlin Mine loan; however, Montana Exploradora de Guatemala has continued to prepare the annual monitoring reports in accordance with IFC standards.\textsuperscript{82} Goldcorp added a Regional Environment Director position for Central and South America in 2007, and in 2008 named a Regional Director for Sustainable Development, Central and South America. In addition, Marlin mine staff includes environment coordinators, supervisors and technicians, a Sustainable Development Manager, and numerous employees for community relations.\textsuperscript{83}

In 2008, Goldcorp issued an \textit{Environmental and Sustainability Policy}. Marlin mine is currently in the process of reviewing site policy and practice to ensure compliance with this corporate policy.\textsuperscript{84} Marlin Mine – and all other Goldcorp sites - has an Environmental Management System (EMS), the goal of which is to “promote continuous improvement in the environmental management

\textsuperscript{81} Goldcorp Inc. Board Manual, \textit{Terms of Reference for the Sustainability, Environment, Health and Safety Committee}.
\textsuperscript{82} Marlin Mine Annual Monitoring Report 2006-2008
\textsuperscript{83} Marlin Mine AMR, 2007, 2008
\textsuperscript{84} Marlin Mine AMR 2008
of the operation”. Annual Monitoring Reports from 2005 through 2008 indicate that the Marlin Mine Sustainable Development Management System (SDMS) is a work in progress. The SDMS aims to promote continuous improvement in the sustainable development efforts of the mine. Management of the Marlin mine includes a Sustainable Development Department, which in turn has an Organizational Development Unit. This unit was established in 2005, and works with local communities to identify, prioritize, and implement community development projects. Projects are pursued in accordance with funds available to the community. The Unit’s work is intended to be a participatory diagnostic process, one which “fosters sustainable community development by strengthening local community planning, financing and implementation capacities.”

7.1.3 Operations

Goldcorp’s commitment to CSR is evident in the operational activities of Montana Exploradora de Guatemala. Marlin Mine is located in the department of San Marcos, Guatemala. The Marlin Mine site straddles the municipalities of San Miguel Ixtahuacán and Sipacapa, with 85% of the planned mine site in the former and 15% in the latter. Montana expresses a commitment to economic, environmental, and social sustainability, and has initiated numerous projects in communities adjacent to the mine.

85 Marlin Mine AMR 2007, 2008
86 Marlin Mine AMR 2008
Engagement

In the Marlin Mine Project Public Consultation and Disclosure Plan (PCDP) of 2004, Montana Exploradora identifies project stakeholders as affected local communities, local, regional and national governments, interested organizations and NGOs.\textsuperscript{88} The residents of affected communities are predominantly indigenous peoples. Key State agencies with which Montana engages are the Ministry of Energy and Minerals (MEM), and the Ministry of Environment and Natural Resources (MARN). The PCDP indicates that stakeholder consultation for the Marlin project complies with several laws and guidelines, including those of the Government of Guatemala, the IFC, and the ILO.

Early engagement initiatives of the company included surveying communities, attending community meetings, and hiring a Public Consultation Specialist. The Environmental Impact Assessment was made available for 20 days for stakeholders to view, and an additional week allowed for the submission of comments. As the project evolved from the exploratory to development phase, Montana formalized the PCDP. Montana enlisted a Guatemalan national as Director of the Community Relations Department, instituted documentation of community consultation, and established a Community Relations Group. The Community Relations Group is comprised of Mam-speaking and Sipakapense-speaking residents of the affected communities. The group is trained to provide

the public with information about the project, and to facilitate the participation of the indigenous population.89

The amount of land needed for the Marlin project was five kilometres². When Glamis acquired the project, Montana began dialogue with landowners to determine whether landowners preferred to sell their land or resettle. Peridot S.A., the land purchaser, acquired land at an average price of US$4,567/acre, a price substantially above market value.90 The Land Acquisition Procedures (2004) explains that land acquisition is voluntary, and no residents will be resettled involuntarily. Further, the document identifies several objectives of the process, including informed participation, compensation and assistance for resettling, and respect for the rights, customs, and culture of indigenous landowners.91 Montana continues exploration beyond the principal mine site to determine areas with future extraction potential. For such purposes, land is acquired from willing landowners at a price higher than market value.92 To strengthen community relations in exploration zones, the Exploration Department has collaborated with the Sustainable Development Department on local projects.93

Montana utilizes various means to engage with stakeholders on an ongoing basis. Company personnel hold “formal, informal and ad hoc meetings with

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89 According to the PCDP, in 2003 (the group’s inaugural year), the Community Relations Group held 83 community meetings, attended by 5,491 people.
90 Montana Exploradora de Guatemala, Marlin Mining Project Land Acquisition Procedures (2004), p.3
91 Ibid., p.1
92 Marlin Mine AMRs 2005-2008
93 Marlin Mine AMRs 2006-2008
community, departmental and national government officials, NGOs and individuals.” Montana communicates with the public via newspapers, radio, tv, flyers, bulletin, pamphlets, posters, and billboards. Montana maintains seven public information offices, and a formal grievance redress process has been established for members of the public.95

**Community Development**

In 2003, Montana hired the American non-profit organization Citizens Development Corps to design and implement an Integrated Community Development Program (ICDP). The goal of the ICDP was “to create the foundation for sustainable multi-sectoral development that would improve the quality of life of residents of these communities in the immediate future and beyond the life of the mine.” Montana established the Fundación Sierra Madre (FSM) in 2004. This NGO is the instrument through which Montana channels most of its community development initiatives. The objectives of FSM are to improve the quality and accessibility of health care, build local community capacity, increase environmental awareness and facilitate local economic development. FSM does much of its work in partnership with state-run entities, and community and non-governmental organizations. Montana’s Sustainable Development Management System is still in the design phase and will address 1) community relations, 2) organizational development and community projects, 3)

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94 Marlin Mine AMRs 2005-2008
95 Marlin Mine AMR 2008
96 Marlin Mine AMR 2007, p33
97 Ibid
liaison with FSM, and 4) liaison with external organizations including national and international NGOs, national and foreign government agencies.98

**Economy**

Goldcorp cites various ways in which the Marlin project contributes to the local economy. In 2007, the project employed an average of 1,132 workers. Approximately 99% of all of the workers are Guatemalan residents, and roughly 68% of the workers are indigenous people from the local communities.99

Goldcorp contributes to local economies through sourcing practices. In 2008, Montana carried out 53% of supplies, materials and equipment purchasing within Guatemala, and secured all contract services from within Guatemala.100

Montana purchases land from willing landowners at favourable prices. The company provides vocational and technical training to locals for employment at the mine. Since 2006, through FSM the Enterprise Development Program has offered vocational, technical, and business management training. The micro-lending program has established communal micro-lending banks, supported women entrepreneurs, and provided training in leadership and management. The Marlin mine is situated in a rural, mountainous region of Guatemala. Goldcorp has contributed to the economy of this remote area by constructing and improving roads and bridges that connect communities to communities, and connect communities to the departmental capital via the Panamerican highway.

Finally, Goldcorp’s operations have benefitted local and national economies

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98 Marlin Mine AMR, 2008
100 Marlin Mine AMR, 2008 p.11
through royalties and taxes. From the start of gold production in 2005 through to 2008, Montana has paid US$5.8 million in royalties. Guatemalan law requires that these royalties be divided equally between the national and municipal governments.

*Health and Education*

Through FSM, Goldcorp has contributed funding and resources to community health and education. A health baseline study conducted by FSM provides information about the health conditions and services of communities close to the Marlin mine prior to the development and operation of the mine. FSM and partners provide health care consultation services to communities surrounding the Marlin mine, health fairs, and monthly health education services for women and students. Goldcorp has contributed to education by building or upgrading schools, and by funding salaries, benefits and supplies for teachers. FSM, in partnership with government agencies, has implemented a teacher training program. Annual monitoring reports further remark that the stability provided by mine employment has allowed children to remain in school.

*Environment*

The Marlin Mine exhibits a range of policies and practices conveying corporate commitment to environmental sustainability. Marlin’s Environmental Management System includes Environmental Management Plans for flora and fauna, sediment and erosion control, dust control, materials and waste management, and environmental monitoring. Environmental performance

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101 Marlin Mine AMR, 2008, p.13
102 Marlin Mine AMRs 2004-2008
reviews occur quarterly and are relatively informal; Montana aims to conduct reviews in a more structured and documented process in 2009.\textsuperscript{103} The company conducts monitoring for air quality, ambient noise levels, surface water quality, groundwater quality, liquid effluent discharges, and aquatic life. Established in 2005, the Asociación de Monitoreo Ambiental Comunitario (AMAC) is an independent and community-based organization. Goldcorp spearheaded the founding of this organization. AMAC monitors Montana’s environmental performance and is comprised of community-selected representatives. AMAC and the Environment Department of Marlin mine conduct parallel water samples, and compare their respective results.\textsuperscript{104}

As stipulated by Guatemalan law, Montana established a reforestation program to compensate for tree cutting in the footprint of the mine. The Incentivos Forestales program gives cash incentives to landowners to care for trees. Within two years the program reforested the requisite 190 acres, and Montana has continued tree planting since meeting the target. In addition, the company has donated thousands of fruit and ornamental trees to communities.\textsuperscript{105}

Operational policies and practices are intended to reduce the project’s impact on the environment. The Marlin Mine Tailings Storage Facility (TSF) is a cross-valley dam, comprised of a rockfill shell and a low-permeability core. Tailings are treated for cyanide destruction before being deposited in the TSF. Montana contracted an independent expert to review the design, construction,

\textsuperscript{103} Marlin Mine AMR, 2008
\textsuperscript{104} Marlin Mine AMRs 2005-2008
\textsuperscript{105} Ibid
and filling of the dam, and to ensure compliance with IFC guidelines. The same independent expert monitors the TSF on an annual basis. The Marlin Mine has two water treatment plants. These facilities reduce total cyanide and mercury levels to ensure that future discharge from the TSF complies with standards. Discharged water – the first of which is expected in 2009 – will be required to meet IFC and MARN guidelines. In 2007 when seepage was detected from a waste dump, the effluent was tested to ensure that it did not exceed these guidelines. Marlin’s process mine requires vast quantities of water, using in 2008 an average of 103 litres of water per second. However, as much as 95% of this water requirement was recycled from the TSF. Montana suspects that the mine’s main production well does not have a hydrogeological connection to the Rio Tzalá – the region’s most significant river - and that the mine’s water usage will therefore not affect the river.

Montana implements measures to prevent and mitigate harmful leaching and acid mine drainage. Waste rock is tested to determine its acid–generating potential. Acid-generating and potentially-acid-generating rock is taken to an ‘encapsulation’ area of the waste dump. In 2008, Marlin’s open pit mine produced 5,413,004 tons of waste rock, 4,574,406 tons of which were placed in the waste dump. Marlin mine also undertakes geochemical testing to determine the long term potential for AMD.

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106 Marlin Mine AMRs 2004-2008
107 Marlin Mine AMR 2007
108 Marlin Mine AMR 2008, p.69
109 Marlin Mine AMR 2004-2008
110 Marlin Mine AMR 2008, p.77
7.2 Another Side of the Story

Glamis Gold acquired the Marlin project in 2002 and received a mining licence from the Government of Guatemala in 2003. In June of 2004 the World Bank, through the IFC, approved a loan of US$45 million for Montana. To qualify for this loan, Montana had submitted various reports in accordance with IFC guidelines. Marlin Mine would be the first mining project of its type to receive IFC financing since the publication of the Extractive Industries Review; the World Bank viewed Marlin as a pilot project for the region.111 The following chronicle depicts a project that does not showcase a reformed and socially responsible EI sector. Instead, what the project has underscored is the disputed nature of large-scale mining operations in developing countries.

7.2.1 Consultation Controversy

Glamis documents state that the company conducted consultations with the community, in compliance with IFC loan requirements. However, inhabitants of the department of San Marcos feel that they were inadequately consulted on the intentions and activities of the company. They claim that company representatives presented the Marlin project as a confirmed venture, and that they were denied opportunities to participate in decision-making about the project. Furthermore, they assert that Glamis misled and misinformed them about the project’s social and environmental impacts. Indeed, in Glamis’ own words, during the land acquisition phase landowners were presented with the choice of

111 Lyra Spang, Guatemala: Sipacapa Community Says NO to Mining! (July 2005).
either selling their land or resettling elsewhere.\textsuperscript{112} Residents assert that the company told them the government would evict landowners who did not sell their properties.\textsuperscript{113} In 2003, people of San Miguel Ixtahuacán described a process in which residents were ignorant observers of company activities:

> We have been noticing with much concern that strangers have come to explore our lands. Later they began to buy some properties, using, among other methods, trickery, coercion and promises of development for the communities. Until recently we were not aware of their motives, but this year we confirmed that a foreign mining company has already installed itself in the region and is about to initiate the extraction of gold and silver.\textsuperscript{114}

A statement by Mayan peoples expresses local sentiment on Glamis’ public engagement:

> The problems and violations of the rights of the inhabitants began with the very entry into San Marcos by the mining company, without consulting the population about the planned mining activities. In the same manner, the Environmental Impact Study, no more than a farce to justify the damages that the mining company knows it will cause, presents many errors, omissions and lies. For example, the document does not analyze the water resources in the region, nor is it accessible to the affected population, as the study consists of more than a thousand pages, many of which are in English.\textsuperscript{115}

### 7.2.2 Opposition

The IFC approved the Marlin project in June 2004, despite popular opposition to the project, and despite appeals by Guatemalan and international

\begin{itemize}
\item \textsuperscript{112} Montana Exploradora, \textit{PCDP} (2004).
\item \textsuperscript{113} Grahame Russel, \textit{Who is Emetorio Perez? And Why Goldcorp Shareholders and Investors Ought to Know}. (February 2009).
\item \textsuperscript{114} Sandra Cuffe, \textit{A Backwards, Upside-Down Kind of Development} (February 2005), p.24
\item \textsuperscript{115} Mayan peoples of Sipakapa, March 4, 2006.
\end{itemize}

http://www.miningwatch.ca/index.php?/Goldcorp/Close_Marlin
organizations to delay approval until adequate consultation had occurred.\textsuperscript{116} Indigenous peoples and campesino groups demanded that Glamis hear their concerns and respect their rights. The Catholic Church emerged as a visible supporter of communities’ struggle with the mining company. Simmering opposition to mining activity was patently clear on December 4, 2004 when residents of Sololá, a neighbouring department, staged a roadblock. Protestors halted the transport of equipment destined to the mine site in San Marcos. Transport workers began dismantling a pedestrian bridge to enable the passage of an oversized cylinder, for which they had obtained the necessary permits. Community members responded by burning a truck that carried mining equipment. The cylinder remained at the side of the road for over a month as government officials, company representatives, and community leaders disputed the issue. Finally, on January 9, 2005, the Government of Guatemala threatened to bring in the army if the protestors did not relent. The protestors held their position, and on January 11 President Oscar Berger summoned the army, declaring “we have to protect the investors”. Hundreds of military and police officers, armed with tear gas and AK-47s, arrived to escort the transport vehicles. In the confrontation that ensued, several community members and police were injured and one man, an indigenous resident of Sololá named Raúl Castro Bocel, was killed.

On January 28, 2005 the Guatemalan environmental organization Madre Selva Collective registered an official complaint with the IFC’s Compliance

Advisor Ombudsman (CAO). Madre Selva’s complaint was four-fold: 1) the mine’s water requirements threatened residents’ access to water 2) the mine posed a contamination threat to the environment and water supply 3) the project violated indigenous rights, and had failed to adequately consult indigenous peoples about mining development plans and the project’s potential impacts 4) the mine’s existence aggravated social tensions, violence and insecurity. Madre Selva asked that the IFC revoke the loan to Glamis. CAO officials visited the project site in May to carry out an investigation, meeting with company personnel, the Guatemalan government, and community groups.

In March 2005 another fatality occurred in connection with Glamis. Alvaro Benigno Sánchez, an inhabitant of San Miguel, was shot and killed by an off-duty employee of the security company hired by Montana. Sánchez, a critic of the mine project, was leaving a choral concert at the parish church when attacked. The shooting had numerous witnesses, yet resulted in no arrests. Montana allegedly pressured the father of Sánchez to accept money in exchange for not pursuing legal action. The mining issue continued to polarize people; both company staff and mining opponents received death threats and were subjected to harassment.

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117 The CAO mechanism is intended to address concerns of communities affected by IFC projects. The office reviews company compliance with IFC policies, and seeks to resolve conflicts.
118 CAO, (September 2005) Assessment of a Complaint Submitted to CAO in Relation to the Marlin Mining Project in Guatemala.
119 MiningWatch, (March 2005); Montana Exploradora, Marlin Mine AMR 2005
7.2.3 The Sipakapa Consulta

The conflict surrounding Glamis’ consultation with inhabitants of the affected region prompted communities to hold a referendum. The process would follow traditional Mayan means of decision-making, and fulfill conditions established by Guatemalan laws governing consultative processes. Community referenda embody rights enshrined in Convention 169 of the International Labour Organization, the foremost international policy on indigenous and tribal peoples. Convention 169 is an international treaty that recognizes the right of indigenous and tribal peoples to consultation and participation. The Convention guarantees indigenous peoples’ right to determine their own priorities and the course of development “as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use”.121 Of particular relevance to the extractives industry, the Convention specifies the following: that indigenous peoples have the right to be consulted prior to any exploration or exploitation of natural resources on their land, the right to benefit from any profits of natural resource exploitation, the right to compensation by the government for any damages caused by such exploitation, and the right to use, manage, conserve and protect natural resources of their territories. Furthermore, where the State owns the mineral and subsurface rights, indigenous peoples must be consulted before the government grants permits for exploration or exploitation.122

121 International Labour Organization, Convention No.169, Article 7
Relocation can occur only with the free and informed consent of affected peoples.\textsuperscript{123} The Guatemalan Government ratified Convention 169 in 1991.

When the municipality of Sipakapa declared its intention to hold a ‘Consulta’ on mining activity in the region, Glamis stated that such a referendum would be illegal. The company’s argument was based on the fact that the State of Guatemala has ownership of subsurface natural resources. The community defended the legitimacy of its plans on the basis of Convention 169. Sipakapa was supported by Guatemala’s Human Rights Ombudsman; in May 2005, a report by the Ombudsman stated that Glamis’ mining licence should be revoked due to violation of Convention 169. Montana filed a suit of unconstitutionality with the Seventh Circuit Court. The Ministry of Energy and Mines also filed for an injunction, with the Constitutional Court.\textsuperscript{124} Critics of Glamis suggest that the company’s opposition to a community referendum underscores the illegitimacy of the company’s consultation process:

If one is to believe Goldcorp’s statements professing community support for mining, it becomes difficult to understand their motivations for taking preemptive legal action to discredit a community driven process set up to ask people to vote “Yes” or “No” to mining activity in their territory.\textsuperscript{125}

\textsuperscript{123} “Free and informed consent” means that “the indigenous and tribal peoples understand fully the meaning and consequences of the displacement and that they accept and agree to it.” ILO (No.169): A Manual, p.44
\textsuperscript{124} Imai et al. (2007) Breaching Indigenous Law: Canadian Mining in Guatemala.
The Seventh Circuit Court issued an injunction; the Constitutional Court did not. Sipakapa municipality appealed the decision of the Seventh Circuit Court to the Constitutional Court, although the mayor abided by the injunction insofar as to withdraw his support of the referendum. The Constitutional Court did not deliver its ruling until May 2007, declaring then that the Consulta process was legal but not binding.

In June of 2005, Sipakapa continued to organize the referendum, and Montana continued to oppose the process. Days before the referendum, Montana issued a press release, stating:

Glamis has learned that a small group of private individuals in Sipacapa are proposing to hold a referendum regarding whether or not the municipality wants future mineral development within its borders… Glamis has received reports of intimidation by the referendum organizers, including threats to shut off water or burn crops of residents if they vote against the referendum. The Company understands that there will be no secret ballot, but that in the face of such threats and intimidation, organizers of the referendum intend to conduct a public vote by a show of hands.126

Despite the ad hoc, minority dissent suggested by Glamis’ press release, the referendum was an organized, publicized process initiated on a community – not individual – level through three municipal resolutions, and carried out via existing governance structures in the municipality. Seventy national and international observers were present to ensure fair voting. Observers and local police found no evidence of the intimidation cited by Glamis. One day before the Consulta, several children distributed pamphlets throughout the community.

According to observers, the flyers, which announced that the referendum was cancelled, originated from the office of Montana. Of the thirteen communities in Sipakapa, one voted in favour of mining on the territory of the Sipakapense people, eleven voted against, and one abstained from voting. Overall, 98.5% of voters rejected mining. Montana carried on with the construction of the mine. Sipakapa residents remained vigilant in their wish to keep their land free of mining activity. The municipality’s Consulta in fact became a model for communities elsewhere resisting mineral exploitation by foreign companies.

7.2.4 Report of the Compliance Advisor Ombudsman

In September 2005, the CAO office issued its final report pursuant to the complaint by Madre Selva. According to Glamis’ 2005 Annual Monitoring Report,

The CAO concluded that environmental impacts were properly identified with appropriate management plans put in place and that the health and environmental risks identified in the complaint were insignificant. The Assessment recommended expanded consultation, particularly in areas outside of the immediate proximity to the project.

This is a somewhat optimistic interpretation of the CAO’s analysis, which was critical of the Guatemalan government, the company (Glamis), and in particular, the IFC. The IFC was found to lack procedure and guidelines for evaluation of project compliance with World Bank standards:

The basis on which the IFC determined that the ESIA [Environmental and Social Impact Assessment] was adequate is not clear. At the time of this assessment no documentation was made available that reflects that any detailed and specific

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127 Imai et al. (2007)
128 Montana Exploradora, Marlin Mine AMR 2005
consideration had been given to how the IFC has and will ensure that the project complies with each of the applicable IFC policies and other basic procedural requirements.\textsuperscript{129}

WBG standards were even waived without any explanation. Furthermore, the IFC had evaluated the project primarily on documents provided by Glamis. The lack of methodology compromises the legitimacy of IFC project approval:

The situation is not helpful in the context of the current conflict, because many of the external observers look to IFC to demonstrate a high level of scrutiny to ensure that IFC requirements for ESIA are met.\textsuperscript{130}

The CAO found lapses and errors in the company’s impact assessment, which the IFC had failed to address. Additionally, there were inconsistencies between the design and implementation of environmental management plans. The CAO noted that the documents Glamis submitted to the IFC fell short of identifying downstream water users, assessing AMD potential, assessing other contaminate potential, establishing water quality standards, and providing details for construction quality assurance.\textsuperscript{131}

The report depicts a poorly governed and disorganized State, whose inefficacy has contributed to the Marlin mine conflict. In an original draft of the report, the CAO remarks:

The government appears to have inadequate capacity, standards and supervisory ability to ensure that the public is involved in decision making about mining in indigenous territories. To a great

\textsuperscript{129} CAO, (September 2005), p.20
\textsuperscript{130} Ibid.
\textsuperscript{131} Ibid. p.19
extent they have left the mining companies to deal with the impacted populations and local problems on their own.132

The CAO found no record of Government consultation with affected communities prior to the granting of the exploration licence for the Marlin project. The report observes “… neither the company nor the government appears to have engaged in a proactive process of working with local people to build a clear understanding of appropriate protocols for disclosure and consultation.”133 At the time of the CAO’s visit to Marlin, the local consultation process on exploration licences in Sipakapa was being recorded neither by the company nor the government; this gave the CAO reason to question whether consultation was in fact happening.134

The report criticizes the company and the IFC for inadequate consideration of the project’s potentially adverse socioeconomic impacts. An original draft addresses the industry paradox, and the need to examine the distribution of costs and benefits:

The anticipated social costs associated with the project have not been evaluated. The criteria to determine if the benefits coming from mining activity are worth more or less than the costs and if they are “adequate” or not for Guatemala should be a matter of national decision and should be based in a grounded debate.135

The CAO is critical of the project’s negligent assessment of human rights and security. A country with deep ethnic divisions and socioeconomic

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132 Holtz-Gimenez and Spang, (September 2005), Beyond the Leaks and Behind the Spins: A Review of the CAO Report on the Marlin Mine. p.7
133 CAO (2005), p.33
134 Ibid., p.31
135 Holtz-Gimenez and Spang, (2005), p.4
inequalities, Guatemala endures a fragile peace. The nation and its people are still coming to terms with a civil war that lasted from 1960-1996. Over 200,000 people were killed or ‘disappeared’, and one million were displaced throughout this time. The Commission for Historical Clarification (CEH) registered 42,275 acts of violence, 85% of which were committed by the Guatemalan army. The military utilized brutal terror tactics, including the massacre of entire (indigenous) villages, the burning of live victims, rape, amputation, and other forms of torture. The CEH discovered that the Guatemalan State was responsible for 93% of the human rights violations. During the war, communities in the San Marcos department suffered 15 massacres. Due to this history, when the presence of foreign companies entails communal division, coercion, death threats, circling helicopters, and security guards – some of whom are former military – the atmosphere invokes a particular terror. Despite the signing of Peace accords in 1996, impunity persists. Human rights advocates in Guatemala continue to be persecuted, and the State is implicated in violent crimes and other violations of human rights. Furthermore, the Guatemalan State has a history of

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138 The CEH explains the climate of terror created by the war, and why this terror persists: “The terror created was not just a result of the acts of violence or the military operations; it was also generated and sustained by other related mechanisms, such as impunity for the perpetrators, extensive campaigns to criminalise the victims and the forced involvement of civilians in the causal sequence leading up to the actual execution of atrocities. For these reasons, terror does not automatically disappear when the levels of violence decrease; on the contrary, there are cumulative and lasting effects, which, to overcome, require time, effort and the direct experience that things have changed.” (CEH, 1999)
repressing citizens over issues of natural resources and foreign investment. The CEH concluded that “the structure and nature of economic, cultural and social relations in Guatemala are marked by profound exclusion, antagonism and conflict” and that the Guatemalan Government had an incapacity “to provide answers to legitimate social demands and claims”. Notwithstanding this context, the CAO report explains that, “at the time that the Marlin project began construction in May 2004, neither the company nor the IFC anticipated the possibility of localized conflict arising from the project and the presence of security forces”. The mining company arrived in Guatemala only 3 years after the signing of Peace Accords, and 1 year after the murder of a bishop who exposed the State’s culpability for war crimes. The Ombudsman report refers to mining-critics’ claims that “the project, because it has created new divisions in the communities, will continue to exacerbate violence and threats to human rights at many levels.” However, the CAO also remarks that mining-critics

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139 For example, in the 1960s and 70s Canadian mining company INCO (through its subsidiary Exmibal) was involved in a project that faced public opposition. The State response included suspension of the right of assembly, the arrest of large numbers of citizens, and a military occupation of the university. Two law professors who oversaw a commission on the mine’s socioeconomic impact were murdered. (Imai et al., 2007, p.105) In 1982 the World Bank-funded Chixoy dam project led to the massacre of 400 Rio Negro citizens by government and paramilitary forces. (Jaroslave Colajacomo for the World Commission on Dams, *The Chixoy Dam: The Maya Achi' Genocide. The Story of Forced Resettlement*, 1999.)

140 CAO, (2005), p.34

141 The initial exploration licence for the Marlin Mine was granted to Montana Exploradora by the MEM in 1999. Montana was first founded by Montana Gold Corporation of Canada in 1998. (CAO, 2005, p.3). Bishop Juan José Gerardi initiated an exhaustive investigation of the war’s atrocities and published the testimony in a report entitled Guatemala Nunca Más. In 1998, two days after he released the study’s report, Gerardi was murdered. In 2001, three members of the Guatemalan military – Colonel Lima Estrada, Colonel Lima Oliva, and Sergeant Major Obdullio Villanueve - were convicted for the murder of Bishop Gerardi. A priest, Father Mario, was found guilty as an accomplice of the crime. (Guatemalan Human Rights Commission-USA, *Bishop Gerardi: a Life Devoted to Social Justice.*)

142 CAO, (2005), p.34
themselves must take some responsibility for the conflict, and refers to an “aggressive” campaign that has

…raised considerable fear and apprehension amongst local people about the possible negative impacts of mining. The campaign has contributed to local tensions and anger and has not always been a reasonable source of information for local people.\textsuperscript{143}

Following the CAO’s Assessment, Glamis implemented community-based environmental monitoring (the AMAC discussed earlier) and introduced the Voluntary Principles on Security and Human Rights to the Marlin Mine site.

7.2.5 Shareholders and Saboteurs

These measures did nothing, however, to soften the entrenched positions of pro-mining and anti-mining actors. Members of the Madre Selva Collective felt sufficiently at risk on account of their anti-mining position that in October 2005, the Inter-American Commission on Human Rights granted precautionary measures. The IACHR asked the Guatemalan State to

…adopt the measures necessary to protect the lives and personal integrity of the members of the Madreselva Collective, including the assignment of police officers to guard their headquarters, and to investigate threats and harassment reported in the request for precautionary measures.\textsuperscript{144}

Goldcorp’s Marlin Mine AMR for 2006 mentions that on August 10, “pro-mining groups and organizations conducted a march in Guatemala City.” The veracity of this public display of support was disputed by the Peasant Workers Movement (MTC) of San Marcos. MTC contended that Montana and CNG

\textsuperscript{143} Ibid., p.iv
(subsidiary of Canadian company Skye Resources) invested a lot of money in the event: transporting workers to Guatemala City by truck and plane, paying workers 500 Quetzales\textsuperscript{145} to attend the rally, and suggesting that those who failed to attend risked losing their job.\textsuperscript{146} In May 2006 the CAO issued a Follow-up Report, with the suggestion that “[t]he mine could declare a temporary, voluntary suspension of exploration activities in Sipacapa” due to “the risks of continuing with exploration activities in Sipacapa, particularly in the current climate of a tense calm.”\textsuperscript{147}

In November 2006 Glamis Gold Ltd. was acquired by Goldcorp Inc. The 2006 AMR stated that “this had no material effect on the Marlin Mine’s day-to-day operations.” Nonetheless, some parties anticipated that new ownership would result in material change. Following the acquisition, Michael Jantzi Research Associates included Goldcorp on the Jantzi Social Index.\textsuperscript{148}:

Goldcorp acquired Glamis Gold Ltd., which has a notably poor community relations record... Jantzi Research believes that the new management team has a greater potential to improve the company’s community relations practices.\textsuperscript{149}

Though the parent-company of Montana had changed, much remained the same in San Marcos.

\textsuperscript{145} The equivalent of approximately $75 Canadian.
\textsuperscript{146} Movimiento de Trabajadores Campesinos, San Marcos Guatemala, August 14, 2006. Online: http://www.miningwatch.ca/index.php/?/Glamis_Gold/Mining_ethics
\textsuperscript{148} Jantzi Research self-describes as “an independent investment research firm that evaluates and monitors the social and environmental performance of securities”, and “one of the leading independent socially responsible investing research firms in the world.” http://www.jantziresearch.ca/about-us
2007 began with a confrontation between citizens and Marlin personnel. On January 10, a group of community members requested an audience with Montana. These former landowners, having learned of the profits that the company was netting in San Marcos, wished to negotiate higher prices for the land they had sold to the company in years past. They claimed that they had been coerced and pressured into the original sale of land. Montana stated that the residents’ petition was unjustified, and there was nothing further to negotiate. After this point the two sides’ stories differ. Montana asserts that trespassing citizens attacked mining personnel with rocks, lacerating the forehead of Montana’s Risk Manager and causing facial injuries to the Security Superintendent. The citizens contend that as they were returning to their houses, unarmed, they were attacked by the mine security forces who carried sticks, arms, and stones. They maintain that one of their group, Fernando Basilio Pérez was struck in the face by the Montana Manager. Following the fracas, hundreds of community members set up a roadblock, halting access to the Marlin Mine for 13 days. Montana responded by issuing arrest warrants for 7 local leaders in relation to the confrontation, accusing them of threats and assault. Two of the accused were forcibly detained and jailed by National Civil Police; one was seized from his house, blindfolded, after 5:00 in the morning. In February the two men were tried and found guilty of committing assault against the Marlin personnel.150

Another incident troubled Montana in January of 2007. Italian biologist, journalist, and environmental activist Flaviano Bianchini, in association with Madre Selva, released a technical report of water quality in the vicinity of the Marlin Mine. The study announced the presence of copper, aluminum, manganese, and iron in the Tzalá River, indicating the occurrence of acid rock drainage. Goldcorp dismissed the study as unscientific. Bianchini began receiving threatening phone calls, and was followed and subjected to surveillance by unknown individuals. Amnesty International issued an Urgent Action fearing for the safety of Bianchini, who had also investigated the environmental and health effects of mining in El Salvador and at Goldcorp’s San Martin mine in Honduras.

Incidents throughout 2008 and 2009 attest to the controversy surrounding Marlin mine, and challenge the veracity of Goldcorp’s commitment to the environment, to community consultation and engagement, and to ‘sustainable community development’. Montana launched a communication initiative throughout Guatemala. This media blitz and numerous tours of the mine facilities for community officials were in response to “an increasingly negative

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151 Bianchini used international parameters to determine water quality: the World Health Organization guidelines for potable water, World Bank guidelines for open pit mining operations, Canadian limits for drinking water, and U.S. Environmental Protection Agency limits for aquatic life. The study found that in water below the Marlin mine, manganese was 2.5 times above the limit, copper was 80 times above the limit, and aluminum was 13 times above the limit. Bianchini, Estudio Técnico: Calidad de agua del Río Tzalá. (2007)

152 Montana Exploradora, Marlin Mine AMR, 2007


154 This was designed “to familiarize the public with Montana and Goldcorp and their social and environmental policies, and the environmental, social and economic activities and benefits of the Marlin Mine”. (Montana Exploradora, Marlin Mine AMR, 2008)
media campaign by anti-mining NGOs from outside San Miguel Ixtahuacán and Sipacapa.” Montana stated that the visits “reduced uncertainty and concern promoted by NGOs”\textsuperscript{155}. While the company is to be applauded for this transparency effort, the assertion of diminished concerns is contentious.

Criticism of the environmental and human rights impacts of Goldcorp’s mining operations prompted a group of Canadian and Swedish investors to visit the Marlin Mine in February, 2008. The visit concluded with a shareholder resolution submitted to the corporation. Goldcorp responded to the resolution by agreeing to commission an independent human rights impact assessment (HRIA) of its Guatemalan operations. Shareholders commended the step, and emphasized the importance of the initiative:

…after ending 36 years of civil war, the country is extremely vulnerable. Therefore, mining companies and others have a responsibility to make sure their business operations are sustainable over the long-term, and respect the Maya culture.\textsuperscript{156}

Goldcorp however had refused to circulate another shareholder resolution, one which petitioned the company “to halt any plans to expand the mine and/or acquire new land in the Municipalities of Sipakapa and San Miguel Ixtahuacán without the free, prior and informed consent of the affected communities”. Goldcorp did not circulate this resolution at the 2008 AGM because it did not “relate in any significant way to the business or affairs of the corporation.”\textsuperscript{157}

\textsuperscript{155} Ibid.
\textsuperscript{156} Press release of April 24, 2008, Investors Spur Goldcorp to Address Human Rights in Guatemala, by PSAC Pension Fund, SHARE, The Ethical Funds Company, GES Investment Services.
\textsuperscript{157} Jantzi Research, Jantzi Research Recommends Goldcorp as Ineligible for SRI Portfolios, April 30, 2008.
Goldcorp’s statement is a patent contradiction of the company’s CSR statements. As outlined in the first part of this chapter, Goldcorp claims to respect the rights and cultures of indigenous peoples, engage in consultation, ensure the participation of community members in decision-making, and conduct exploration on the property of “willing” landowners. Furthermore, this issue is indeed significant to the business of the corporation; future profitability is achieved in part by expansion, which requires exploration in adjacent territory “with the objective of defining and expanding mineable ore reserves.”

A mining analyst from Jantzi Research Inc. was with the group of investors that visited San Marcos in February. In April 2008 Jantzi removed Goldcorp from the Jantzi Social Index and recommended that the company be considered ineligible for SRI portfolios:

- ... there is growing opposition from local indigenous communities to Goldcorp’s Marlin mine in Guatemala based on community compensation and land rights, inadequate consultation with indigenous peoples, threats to safety and security in addition to the environmental impacts of the mine’s operations

- Goldcorp has not provided adequate indication that it has addressed the communities’ health concerns associated with its operations in Honduras…

- Goldcorp has the highest environmental fine total among mining companies on the TSX Composite Index…

Resistance to Marlin mine has continued unabated. In May 2008 a local resident committed what Montana termed “a deliberate act of sabotage”. A woman from the community of Agel threw a cable over the main power line,

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158 Montana Exploradora, Marlin Mine AMR 2005, p.5
159 Ibid.
depriving both the mine and processing plant of power for nearly 30 hours.

Residents again short-circuited the power lines in June, stopping gold production from June 11 to July 26.\textsuperscript{160} Women from the community described a litany of abuses that they believed the mine has inflicted on their way of life: inadequate information before seeking the community’s consent, dried up wells, large cracks in homes caused by frequent dynamite explosions, and inequitable compensation for land and damages. Gregoria Crisanta Perez explained their action against Goldcorp:

Company workers came to my house to ask me permission to post the poles within my terrain. I asked if they were going to put in posts and anchors and they said no. I knew that installing posts and anchors would take up a lot of space. I have been demanding my rights since 2005 but the company has never complied. As we became fed up with all the damages the mining company has committed against us, we decided to cut its power supply.\textsuperscript{161}

The company issued arrest warrants for eight women. A senior Marlin executive explained that Montana had a written, signed agreement with Gregoria, granting permission for the company to access her land. When asked if the woman could read, the executive assured that the document was read aloud in the local Mayan dialect. However he could not confirm that it was Gregoria who signed the agreement.\textsuperscript{162}

\textsuperscript{160} Montana Exploradora, Marlin Mine AMR 2008
\textsuperscript{162} BBC News, \textit{Unease Over Guatemalan Gold Rush}, (August 21, 2008) Goldcorp reports that "the perpetrator would not allow access to her property to resolve the problem." Mimundo.org reports that mining representatives who came to 'resolve the problem' were accompanied by 35 National Police who threatened the women with tear gas.
While Montana was busy constructing a transmission line by-pass to restore power to the mine, two more incidents occurred. On July 9 the municipality of Sipakapa sent a letter to Montana requesting that the company close its municipal communications office in Sipakapa. The letter explained that the municipality had received word from the owner of a water supply, threatening to deny neighbourhood access to water if the Montana and Fundación Sierra Madre offices in Sipakapa were not closed. Montana personnel met with municipal officials, who complained about the company’s public relations and communication strategy. The company closed the Communications office and FSM office in the town of Sipakapa, but planned to open offices in smaller communities where Montana deemed there to be community interest. Montana reported that on July 21 two Marlin Mine workers were kidnapped on a road near the mine site. The unknown assailants took the pair to a location near the Mexican border. The abductees were able to escape to a nearby village, whence they were “rescued by Montana personnel and security forces”.

2009 brought more negative publicity for Goldcorp. In March the Public Service Alliance of Canada, a key player in the Human Rights Impact Assessment, withdrew from the process. PSAC stated

We have been especially concerned about the lack of free and informed prior consent of the communities in regards to the HRIA, and that the interests of Goldcorp are being put before the interests of the local people.\textsuperscript{163}

\textsuperscript{163} BBC, Canada Goldmine Worries Grow. (March 30, 2009). Online: http://news.bbc.co.uk/2/hi/americas/7968888.stm
PSAC’s national president commented that the union’s reputation in the area of social justice was being tarnished due to its involvement in the HRIA, a commission whose “independent” status was highly questionable.\textsuperscript{164} Also in March, the Guatemalan NGO COPAE\textsuperscript{165} released a report claiming that arsenic levels in the Río Tzalá were alarming. COPAE’s technical team conducted water tests in February and compared them with earlier tests in the same locations. International standards for arsenic limits vary, with the World Bank setting the limit at 0.1mg/L for open pit mining projects, and the U.S. Environmental Protection Agency establishing the limit at 0.01mg/L. According to COPAE, arsenic levels in the Río Tzalá rose from 0.05mg/L in March 2007 to 0.1mg/L in October 2008, and to 0.7mg/L in February 2009.\textsuperscript{166}

In June 2009 Montana’s consultation methods were again denounced by communities resisting mining and by NGOs supporting the communities’ cause. Montana’s exploration activities have focused on the Agel area of San Miguel Ixtahuacán and the Cancil area of Sipakapa.\textsuperscript{167} The company had been pursuing 200 cords of land owned by 20 families in the village of Sacmuq, Agel. The families were adamant that the mining operations not expand into their territory, and with the exception of one family had refused to sell their land. The community was resisting what they perceived to be forced, illegal land occupation, and had asked repeatedly for the company to remove vehicles and

\textsuperscript{164} The remaining investors would continue to support the process, in hopes of pursuing dialogue, improving conditions for the local community, and influencing Goldcorp.

\textsuperscript{165} Comisión Paz y Ecología (the Pastoral Commision Peace and Ecology) of the Diocese of San Marcos

\textsuperscript{166} COPAE, \textit{Arsenic in the Rivers Around the Marlin Mine}, (March 26, 2009)

\textsuperscript{167} Montana Exploradora, Marlin Mine AMR 2008
exploration equipment that was occupying private and community land. Montana claims to have rights to the land. According to local reports, on June 10 Montana workers told community members that they would remove equipment the following day. On June 11 Montana representatives did not remove the equipment, but signed an agreement promising to remove it on June 12. Montana personnel neither showed nor removed equipment on June 12. In the meantime, national police, soldiers, and Montana security guards arrived, to protect Montana management. Montana’s failure to comply with the agreement prompted community members to burn company equipment. The confrontation has resulted in arrest warrants for 7 community leaders, death threats against community leaders and their families, and a community appeal to the Inter-American Commission on Human Rights for protection. Community members and their supporters asserted that the incident was yet another example of the criminalization of resistance, another injustice on the part of a State that – without due, impartial investigation – uses military force and legal mechanisms to protect private interests and repress citizens.  

The testimony of residents of San Miguel Ixtahuacán and Sipakapa runs counter to the mining benefits extolled by Goldcorp. Residents complain of dust pollution, exhausted water resources and sick animals. Locals do not perceive Fundación Sierra Madre as a development organization in which they are

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partners, but rather as an appendage of Montana.\textsuperscript{169} In communities adjacent to the mine, health problems are emerging such as skin rashes, hair loss, and swollen limbs. The mining company explains these ailments are caused by poor hygiene and malnutrition. This is the same explanation Goldcorp has provided for similar ailments among communities adjacent to the San Martin mine in Honduras.\textsuperscript{170} Guatemalans have reason to doubt Goldcorp, given that these afflictions did not occur either in San Marcos or San Martin prior to mine development. Analysis of water and blood samples is confirming the environmental contamination caused by Goldcorp’s (now closed) mine in Honduras.\textsuperscript{171} Montana has an explanation for the fissures that have cracked 59 houses in the villages closest to the mine. An engineer hired by the company told locals the cracks were caused by passing vehicles, or by corn-grinding machines some women have in their home.\textsuperscript{172} Montana describes economic stability that has enabled families to remain together and children to attend school. Yet locals see things otherwise:

In San Miguel Ixtahuacan there is massive emigration towards the United States, Mexico, towards the coastal regions. The jobs which the mining company originally offered were a lie. In addition, the levels of alcoholism, prostitution and gang activity have all increased [since the mine arrived] – they are foreign ideas, social

\textsuperscript{169} An example of this relationship is reports that water projects funded by Montana have denied water access to mine opponents. (Rodriguez, \textit{Gold Mine Worsens Social Tensions}, July 31, 2007).

\textsuperscript{170} Rights Action, \textit{Health Harms in San Miguel Ixtahuacán}, (February 2009).

\textsuperscript{171} MiningWatch, \textit{Dangerous Contamination Levels in Siria Valley Demonstrated by Independent Study}. (August 2006). In 2008 the Honduran Department of Forensic Science found high chemical levels in 28 of 40 blood samples. (Meza, \textit{Plomo, mercurio, y arsénico fueron encontrados en pobladores del valle de Siria, Honduras}. Jan 22, 2008).

\textsuperscript{172} Rodriguez, (July 31, 2007)
changes. And there still remain very high levels of poverty and illiteracy.173

In San Marcos the Marlin Mine has resulted in deep communal and familial rifts, between those who support the project and those who oppose it. In the present context, desarrollo – ‘development’ - is a word of extreme political connotation. For some, development signifies employment and a higher standard of living. For others, development represents a foreign incursion that compromises social relations, health, and the environment. Bishop Ramazzini of San Marcos has been a vocal opponent of the negative impacts of mining. Nevertheless, his prayers in a January 2008 service held a vision to which all sides in the Marlin conflict, pro-mining and anti-mining, might aspire:

Lord, please accompany these brothers so that together, authorities and the people united can walk the paths towards welfare, increased social and economic development, and peace, in this beloved region of Sipakapa.174

The key question of course, is whether a path of welfare, social and economic development, and peace is a path that includes mineral extraction. As this chronicle of events in Guatemala has illustrated, the CSR efforts of Goldcorp have not achieved widespread public support for mining. And if residents’ testimony of health problems, environmental contamination, and human rights abuses is true, neither has CSR facilitated ‘sustainable community development’. Mining remains a controversial venture in Guatemala, and the interactions


174 Rodriguez, Defending our Territory from Plunder, (March 2008).
between stakeholders - company, government, community, NGOs, and shareholders - attest to this.
8: CONCLUSION

The Goldcorp case study is representative of industry trends across the Latin American region. As evident in the case study, companies are but one of several key actors in the issue of mineral extraction. Patterns across the region reveal the complexities of the industry paradox and why CSR alone cannot address the controversies. The patterns also reveal why mineral extraction projects have not succeeded in delivering ‘sustainable development’ to the satisfaction of stakeholders. Some principle factors include divergent perspectives, industry tendencies and the voluntary nature of CSR, ineffective government and institutions, and the socio-political context of host countries.

The conflicts that arise around mineral extraction reveal extremely divergent perspectives and philosophies that are not likely to be reconciled. Fifty percent of newly-mined gold is extracted from traditional lands of indigenous peoples, and the majority of EI concessions in Latin America are for development on indigenous land. The development paradigms promoted by central governments, foreign companies and international development agencies are frequently at odds with the world vision of many indigenous peoples. These opposing viewpoints propel much of the controversy in the EI sector. The contrast in perspectives is evident in the contradictions between national laws, international trade agreements, and international treaties on indigenous peoples.

175 Paley et al., (2008)
Relationship with the land is a cornerstone of indigenous culture. This lends a particular nuance to concepts such as ‘property rights’, ‘land acquisition’, ‘consultation’, and ‘development’. The most comprehensive plan for relocation, compensation, and reclamation is therefore inconceivable to a community that has cultural, ancestral, and spiritual connections to the land proposed for development. CSR initiatives are not infrequently interpreted as ‘Western’ impositions; indigenous people express resentment, for instance, at being treated as “just another stakeholder”. Similarly, consultation methods have weakened and undermined traditional authority structures by introducing new decision-making processes and dividing communities. Indigenous peoples share their perspectives:

… For us, these projects mean extracting blood from our mother, extracting bones from our mother, extracting thoughts from our mother. For this reason each day there are health problems, conflicts, the disorganization of the people, and nature weakens...At the beginning, from the origin, the mother recommended us — the kogui, wiwa — to sustain the world, and that is why we keep on living and carrying out our internal projects...This means sustaining life.

As Indigenous Peoples, we have an integral vision of Mother Earth, manifested in the respect and intimate relationship that exists between people and nature. This is our Cosmovision, in which human beings are not superior, but part of a whole. Our vision contrasts with the occidental logic of natural resource exploitation, based on the accumulation of capital by a few at the cost of the lives of many, in this case of Indigenous Peoples.

177 Koggi people of Sierra Nevada, Colombia, cited in Weitzner, (2002)
Reflecting a very different perspective on land and natural resources is the president of Peru, voicing frustration that indigenous peoples stand in the way of much-needed development:

> There are millions of hectares of timber lying idle, another millions of hectares that communities and associations have not and will not cultivate, hundreds of mineral deposits that are not dug up, and millions of hectares of ocean not used for aquaculture. The rivers that run down both sides of the mountains represent a fortune that reaches the sea without producing electricity.\(^{179}\)

Indigenous communities are not inevitably opposed to development projects from ‘outside’, but self-determination and ownership of decisions affecting their land is essential:

> Indigenous people need to come together… get the governments to listen to us and to show them that, yes, we can contribute to development, but that they do have to listen to our views as well and allow us to participate in decision-making…\(^{180}\)

Due to the multistakeholder nature of mineral extraction, the controversial issue is conducive to co-optation. Government officials, community leaders, company personnel and NGOs have all accused one another of exploiting the mining controversy. The rhetoric utilized by each actor reflects a conscious framing of the issues. There are omissions in what each party reports, even as they claim their opponents to be unreliable sources of information. International NGOs assume a grassroots position, yet have no democratic legitimacy in the

\(^{179}\) Alan García Pérez in El Comercio, *El síndrome del perro del hortelano*, (October 2007).

\(^{180}\) Tony James, Captain of Aishalton, Region IX, Guyana, cited in Weitzner, (2002).
communities they represent. In some cases their presence has been as detrimental as the private sector they tend to vilify.\textsuperscript{181}

Industry tendencies and the voluntary nature of CSR have perpetuated mining controversy. When companies do not comply with regulations, or their actions contradict their commitments to socially responsible business practices, this discredits CSR initiatives, erodes trust, and delegitimizes multistakeholder processes. When non-compliance results in human rights abuses, environmental contamination, health problems, and social upheaval and conflict, these costs are evidence that a project is not sustainable for the affected region. Goldcorp’s failure to adequately address the health concerns in relation to the San Martin mine is an example of this. Even now that the mine has closed, impacted communities claim they are worse off health-wise, economically, and environmentally than before the mining development. The Alumbrera mine in Argentina\textsuperscript{182} provides another example of corporate non-adherence to regulations and CSR commitments. In June 2008 Alumbrera was charged for environmental contamination, tax evasion, corruption and contraband.\textsuperscript{183}

CSR is inconsistently implemented, within and among companies. Because CSR is voluntary, companies need not subscribe to its principles; when they claim to, there is no single, established standard, and no enforcement mechanism. The absence of truly independent monitoring threatens the

\textsuperscript{181} Weitzner, (2002).
\textsuperscript{182} Alumbrera is a subsidiary of Goldcorp (37.5%), Xstrata, and Yamana. (Goldcorp website: http://www.goldcorp.com/operations/alumbrera/)
\textsuperscript{183} David Modersbach, National University of Rosario, Argentina. First Ever in Latin America: Mining Corporation Charged with “Crimes Against the Environment”. (June 2008) Online: http://www.miningwatch.ca/index.php/?/Argentina/Alumbrera_charges
legitimacy of auditing. CSR suffers free-riding potential; companies who do not subscribe to CSR can undercut those who do, and damage the industry as a whole through irresponsible practices. Mining projects typically involve subsidiaries or consortia, contractors and consultants, therefore the ‘parent’ company and its guiding principles may be quite removed from actual operations. Do the contracted companies follow the same CSR guidelines? Do the objectives of employees mirror the objectives of corporate headquarters? The industry tendency for mergers and acquisitions in the industry hampers CSR efforts. A company with good CSR intentions still inherits the reputation and poor relations established by the previous project owner. A community may already be distrustful of corporations, and unwilling to negotiate with a new company. Settlement packages and compensation for affected communities are complicated by mergers and the extension of operations.

A key to the mining controversy lies in the nexus of responsibility between stakeholders. These responsibilities overlap and intersect, and are often ill-defined, not adhered to, and not enforced. As discussed in Chapter six, companies have a voluntary responsibility to any CSR commitments they have made. Companies’ responsibility to the land and people affected by their operations is indirect; they are legally beholden to international laws, source country laws, and host country laws. Governments of host countries have responsibility for citizens’ rights and wellbeing, and for the conservation and development of natural resources. In relation to foreign investment in the extractive industry, they have the challenging task of balancing the rights of
indigenous people and other citizens on the one hand, with conservation and development projects on the other. In governance reality, responsibilities become priorities; in Latin America, fiscal and political responsibilities have been shown to take precedence over responsibilities to citizens’ rights and freedoms. Rather than assuming a mediating role between competing responsibilities, and between foreign companies and local communities, governments have consistently sided with companies. NGOs assume the role of advocating for citizens; their main responsibility is to their “cause”. When a government does not uphold its own responsibilities, does not abide by its country’s laws, or has weak regulations and enforcement for social and environmental impacts, is it the company’s responsibility to raise the standard? CSR would suggest “yes”; business expediency and legal obligations to maximize shareholder profits suggest “no”.

The nebulous terrain of responsibility is convenient for governments and companies to advance their interests. It does not however advance sustainable development, and both invites and exacerbates conflict. The ILO Convention 169 is frequently cited by civil society in opposition to the mining projects of foreign companies. The Convention is directed at governments, however, not at the private sector, and the agreement is binding only on those States that have ratified it. Despite the ILO Convention, the Guatemalan government’s absence from Marlin Mine consultations is typical of EI projects in Latin America. The IFC cautions that companies can be implicated in a State’s non-compliance. A company’s licence may be legally challenged if the government has not complied with ILO 169. Whereas projects may be implemented in countries with weak
governance or a state of conflict, there is risk of the private sector having great influence over the government. In anticipation of large revenues from extractive projects, the State may disregard ILO obligations in order to expedite the licensing process.\(^{184}\)

Chile provides examples of the potential for companies to evade regulation and the propensity of governments to support projects, regardless. Carmen de Anadacollo in Chile is owned 90% by a Canadian company\(^ {185}\) and 10% by the Chilean Government.\(^ {186}\) When communities complained that the company’s practices violated municipal law, the Regional Council adjusted the Communal Regulation Plan so that the company’s operations were legal. Civil society organizations brought their complaints to the Canada-Chile Commission for Environmental Protection,\(^ {187}\) arguing that the Chilean state had failed to effectively apply the current environmental legislation. The Commission disregarded the case, citing a lack of evidence.\(^ {188}\) Similarly, Barrick Gold’s EIA for the Pascua Lama project straddling Chile and Argentina was approved by the

\(^{184}\) IFC, *ILO Convention 169 and the Private Sector: Questions and Answers for IFC Clients.* (March 2007) Imai et al. make this point with regard to Guatemala: “It can be seen that the state does not provide an effective counterbalance to a large corporation, partly because the democratic state itself is struggling to protect human rights, and partly because the country is vulnerable to economic necessity.” (Imai et al., 2007, p.128)

\(^{185}\) Previously Aur Resources, now Teck.

\(^{186}\) Aur Resources located the mine’s tailings piles 200 metres from homes in Andacollo, despite a Communal Regulation Plan stating installations were illegal within the urban area. Heavy rains in 1997 caused the piles to collapse and contaminate water. Further water contamination occurred via a damaged pipe system that collected lixiviated material.

\(^{187}\) Created by the Canada-Chile Environmental Accord, a component of the Canada-Chile Free Trade Agreement signed in 1997.

\(^{188}\) Clark, (2006); Cesar Padilla, *Canadian Mining Exploitation in Chile: Community Rights and the Environment.* (April 2005); OLCA, *Contaminación por aspersión de ácido sulfúrico en pila de lixiviación minera. Chepiquilla - Andacollo, Región de Coquimbo.* Online: [http://olca.cl/oca/chile/chepiquilla.htm](http://olca.cl/oca/chile/chepiquilla.htm)
Chilean government in 2001. The EIA neglected to mention that the project would require the removal of three glaciers. When civil society publicized this omission and other concerns, testimony of former Barrick employees and numerous studies suggested that the exploration and preparation phase had already caused environmental degradation, human health problems, and ghastly labour conditions.\(^{189}\)

The social and political climate of some countries in which Canadian companies operate precludes sustainable development and working partnerships between companies and local communities. These are the situations in which companies – regardless of CSR commitments – are connected with human rights abuses, criminalization of dissent, and strategic alliances with corrupt officials, military and paramilitary forces. The Goldcorp case study was an example of this climate. A Guatemalan describes this atmosphere, likening it to the war years:

Just as it occurred during the internal armed conflict, the criminalization of social and popular struggles is being felt once again in some communities that get organized…[Those] who stood up against the repression and the exclusionary government policies which result in poverty, were singled out as enemies. The construction of such a negative image of their struggles allowed for the genocide to occur. If the government, authorities, and business interests maintain such stance in relation to the peoples’ resistance movements, we run the risk of having history repeat itself.\(^{190}\)

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\(^{189}\) Quevedo, Ormeño, and Olivares, *El Exilio del Condor: Hegemonía Transnacional en la Frontera – el Tratado Minera entre Chile y Argentina*. (2004); Clark, *Canadian Mining in Neoliberal Chile* (2006); Daniela Estrada, *Activists Try to Block Start of Pascua Lama Mine* (May 2009).

\(^{190}\) Wendy Méndez, member of HIJOS (Sons and Daughters for Identity and Justice, against Forgetfulness and Silence), in CERIGUA, *Vuelve la criminalización de la lucha social*. (October 2008).
Similarly, the presence of Canadian extractive companies in Colombia has in cases made them unwitting accomplices in human rights abuses. The confluence of guerrilla warfare, government corruption, and natural resource development projects involves forced displacements, extortion, disappearances and deaths of community members. At the very least, the country’s civil conflict has severely eroded the ability of indigenous peoples to represent their perspective in consultation with companies.\(^{191}\)

The host country governments with which Canadian companies interact have demonstrated a capacity for corruption, mismanagement, and ineffective institutions. The regulatory and managerial approach of such governments can in fact discourage progressive policies by companies. Diversion and mismanagement of public funds contributes to negative perceptions of industry, with communities denied the fiscal benefits that legislation guarantees. Peru’s 2002 “canon minero”, for example, stipulates that half of the tax revenue received by the central government be allocated between regional government, provincial municipality, and provinces of the region. Yet Peru’s government is notorious for failing to distribute these revenues.\(^{192}\) In Argentina, Alumbrera is not alone in facing criminal charges; local and national government officials are presumed accomplices.\(^{193}\)

If host country governments have contributed little to remedy the mining controversy, critics contend that the Canadian government has only fanned the

\(^{191}\) Weitzner, (2002); Pearce, Colombia: Tackling Corporate Complicity, (2006); Ismi, Profiting from Repression: Canadian Investment in and Trade with Colombia, (2000).

\(^{192}\) North et al., (2006); Glennie, (2005).

\(^{193}\) Modersbach, (June 2008).
fires of contention. Canada has no legislation to regulate overseas conduct of Canadian corporations, and there is no legal or financial recourse for companies not meeting local or international standards. The re-writing of Colombia’s mining code will contribute to the perception that the costs and benefits of mining are unevenly distributed: critics claim the new Mining Code reduces government royalties from 10% to 0.4%, and although indigenous peoples have title to over 25% of Colombia’s land, they had minimal involvement in preparation of the Code and have been stripped of rights enshrined in the previous Code.\footnote{Weitzner, (2002); Arsenault, (2006); Maclean’s Magazine, New CIDA Code Provokes Controversy, (July 1, 2006).} In 2009, the Government of Canada issued a response to the \textit{National Roundtable on Corporate Social Responsibility and Canadian Extractive Industries in Developing Countries} two years after the Advisory Group tabled their report. The government’s strategy will essentially maintain ‘business as usual’, by creating a CSR Counselor instead of the Ombudsman, and complaints procedure recommended by multistakeholder consensus.\footnote{Government of Canada, \textit{Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector}, (March 2009); MiningWatch, \textit{Government Not Serious About Accountability for Extractive Companies}, (March 2009).}

The extractives industry has come under increasing pressure to ameliorate its record and reputation. As Canadian mining companies have expanded their operations in Latin America, they have been implicated in environmental contamination, health problems, disrupted livelihoods, social unrest, and human rights abuses. Despite the potential for mining investment to benefit host countries and communities, these incidents have convinced individuals, communities and civil society organizations that such projects bring
more harm than good. Mining companies have responded to the scrutiny by adopting corporate social responsibility as a business strategy. Through philosophy, management, and operations, corporations express a commitment to the ‘Triple Bottom Line’ of economic, social, and environmental sustainability. Yet despite these initiatives, the industry paradox persists. The situation prompted an international assembly of peoples affected by mining to declare:

That the aggressive expansion of mining industries in Latin America, under the premise of "sustainable development," is generating conflicts and affecting the rights of a growing number of communities and populations, stripping lands, causing forced displacements, migration, and irreparable damages to the environment – the fundamental foundation of life.196

Much would need to change, much more than current CSR practices can deliver, if the scales were to tip such that mining critics were convinced of a more equitable distribution of costs and benefits in the extractive industry. The national governments of host countries would need to be seen as neutral actors. This involves representing the interests and addressing the concerns of community constituents, and not merely defending the rights of investors. This involves consistent adherence to the rule of law. National governments would need to have a proactive presence in three-way negotiations between government, companies, and communities. Governments would need to responsibly manage and distribute mining revenues, such that citizens experience tangible benefits of foreign direct investment. The exploitation of natural resources would require consistent management within a comprehensive regulatory framework that

196 OCMAL, Oruro Declaration, (March 2007), Online: http://www.miningwatch.ca/index.php/?/Latin_America/Oruro_declaration
upholds high international standards for environmental and social impacts, as opposed to lenient, ad hoc, minimal standards that may perhaps attract foreign investment, but also contribute to company-community conflicts.

Development would need to be planned with consideration for future generations. Development that is economically, socially, and environmentally sustainable would not engender the view that is prevalent in many communities, that ‘foreign companies take our riches and leave us with nothing but damages’. Affected communities would need to be duly and adequately compensated for potential negative impacts of mineral extraction. Local peoples and indigenous peoples would need to be participants in decision-making and partners in the formulation of development plans within their region, not regarded by companies and governments as either encumbrances or inconsequential.

Governments of source countries would need to facilitate and support the efforts and capacity of companies to demonstrate high standards of corporate accountability. The business between source and host countries would be of a nature that strengthened the institutional and governance capacity of the latter; their business would not undermine incentives to respect human rights, the environment, and the well-being of future generations.

The multistakeholder nature of mineral extraction and the complexity of the controversy prevent CSR from adequately addressing the industry paradox. CSR efforts have undoubtedly helped to increase awareness of and mitigate the negative impacts of mining. CSR is a step forward. But there is still much ground to cover – by all stakeholders – if the controversy surrounding mineral extraction
is to be resolved such that development is equitable within and between
generations, and economically, socially, and environmentally viable in the long-
term.
APPENDIX

Appendix A: Regulatory Laws, Initiatives, Commitments, and Recommendations

Compliance Advisor Ombudsman (World Bank)

Earth Charter Initiative

Environmental Excellence in Exploration (Prospectors and Developers Association of Canada)

Equator Principles

Global Reporting Initiative (G3)

IFC (International Finance Corporation) Performance Standards

ILO (International Labour Organization) Convention No.169

Inter-American Commission on Human Rights (Organization of American States)

The National Roundtables on CSR and the Canadian Extractive Industries

OECD Guidelines for Multinational Enterprises

Operational Directive for Indigenous Peoples (World Bank)

Towards Sustainable Mining Initiative (Mining Association of Canada)

UN Declaration on the Rights of Indigenous People

UN Global Compact

UN Human Rights Norms for Business

UN Universal Declaration of Human Rights

Voluntary Principles on Security and Human Rights

World Bank Resettlement Directive
BIBLIOGRAPHY


Chauvin, L. June 2000, All That Glitters... Latin CEO: Executive Strategies for the Americas. Available: http://findarticles.com/p/articles/mi_m0OQC/is_6_1/ai_100463006/


Confederación Nacional de Comunidades del Perú Afectadas por la Minería.


Department of Justice Canada current to June 17, 2009, Canada Business Corporations Act Chapter C-44.

The Dominion Winter 2008, Issue #55, Montreal.


Extractive Industries Transparency Initiative February 1, 2008, *EITI Fact Sheet*.


Hopkins, M. 2007, *Corporate social responsibility and international development: is business the solution?* Earthscan, London, Eng; Sterling, VA.


MiningWatch September 2007, *Goldcorp Analysis*.


Ormeño, C.P. April 2005, *Canadian Mining Exploitation in Chile: Community Rights and the Environment,* OLCA; MiningWatch.


