



The democracy deficit of corporate social responsibility in post-neoliberal times: an analysis of the Argentinian and Ecuadorian experiences



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ABSTRACT

Several evaluations of contemporary left-of-center governments in South America suggest that natural resource governance in the region has become post-neoliberal only in the sense that States augmented the appropriation and distribution of rent motivated by sustained international demand for commodities. The political ecologies of mining remain characterized by increasing demands for more democratic decision-making as occurred in the 1990s. In order to explain this continuity, most studies focus on the interactions between States and civil societies. They state that a pragmatic stance on resource governance regards rent capture and distribution over the development of mechanisms for inclusion in decision-making. These assessments give only a partial account of the interactions involved in such dynamic, they underestimate corporate behavior as a central component of emerging forms of governance. We argue that companies were central actors of the production of mining conflicts during the 1990s and still exert an important degree of influence in resource governance through corporate social responsibility (CSR) strategies. Our findings show that since the neoliberal legal and administrative reforms of the early 1990s, Argentinian and Ecuadorian governments have supported a system of mining governance that regards the economic interests over the demands for more democratic decision-making. Nevertheless, even after recognizing the deleterious effects of neoliberal CSR practiced by companies, left-of-center governments have not been able to steer corporate behavior in a new direction.

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1. Introduction

Several evaluations of contemporary left-of-center governments in South America suggest that natural resource governance in the region has become post-neoliberal only in the sense that States augmented the appropriation and distribution of rent motivated by sustained international demand for commodities (see [Bebbington and Humphreys Bebbington, 2011](#)). In Bolivia and Ecuador, these governments increased State participation in mining industries introducing legal and contractual reforms and invested in public companies to gain more sovereign management of natural resources ([Bebbington, 2012](#)). On the other hand, countries like

Brazil and Chile, which have maintained direct public involvement in the extractive industries in the past decades, are currently implementing important market-opening reforms in order to benefit from the current commodity super-cycle ([Nem Singh, 2010](#)). In both cases, however, the political ecologies of mining are still characterized by increasing demands for more democratic decision-making as occurred in the 1990s ([Martinez-Alier, 2012](#)).

In order to explain this continuity, most studies of post-neoliberal mining governance focus on the interactions between States and civil societies. They state that a pragmatic stance on resource governance regards rent capture and distribution over the development of mechanisms for inclusion in decision-making ([Gudynas, 2012](#)). Nevertheless, these assessments give only a partial account of the interactions involved in such dynamic, they underestimate the importance of corporate behavior as a component of emerging forms of governance (see [Hogenboom, 2012](#)).

In this paper we argue that companies were central actors of the production of mining conflicts during the 1990s (see [Hilson and Haselip, 2004](#)) and still exert an important degree of influence in

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resource governance. This is especially relevant if we consider that renewed State control of the extractive industries is not necessarily leading to nationalizations of foreign capitals as witnessed during the sectoral reforms of the 1950s and 1960s.

We put forward our argument in three stages. In Section 2 we present the theoretical grounds for the study of governance change in the mining sector. In Section 3 we show how corporate behavior, in the form of corporate social responsibility (CSR), influenced the emergence of pro and anti-mining coalitions in Argentina and Ecuador and their impact on governance. We close the article with Section 4 discussing the outcomes of renewed State involvement in mining governance in the two countries.

Data presented here originates from secondary sources, direct observations and in-depth interviews conducted by the authors between 2008 and 2013. Our findings suggest that post-neoliberal mining governance reproduces the neoliberal logics installed in the 1990s, which systematically uses CSR to downplay the potential benefits of social participation to improve mining's contribution to sustainability. Argentinian and Ecuadorian governments have supported a system of mining governance that regards the economic interests over the demands for more democratic decision-making. Additionally, we determined that even after recognizing the deleterious effects of neoliberal CSR practiced by companies, left-of-center governments have not been able to steer corporate behavior in a new direction. Moreover, States are actively supporting neoliberal CSR practices that build asymmetrical relationships with communities and increase the influence of mining interests in the definition of public policy in a national scale or failing altogether in establishing a form of State-led CSR.

Our discussion is relevant for countries starting a new wave of legal reforms to strengthen State participation in the mineral sector, as seen in recent years in Africa (Southall and Melber, 2009).

2. Theoretical framework: the study of governance change

According to Grugel (2009), the collapse of the neoliberal policy matrix in the late 1990s inspired different approaches towards building new relationships between States and market agents in South America. During the past decade, the leftist regimes of Bolivia, Ecuador, Argentina and Venezuela are said to have changed mining governance from a system characterized by self-inhibited States (Antonelli, 2009) or meta-regulating States (Svampa et al., 2009a) for more hierarchical interventions of States in natural resource governance (Bebbington, 2012).

These evaluations, however, pay little attention to the role of corporate behavior in these changes due to a narrow understanding of the term governance. Scholars, especially in Latin America, understand governance as a dispositive deployed by the hegemonic actors of the mining industry (multinational corporations and States) devised to legitimize the neoliberal approach of sectoral deregulation (see Antonelli, 2009; Svampa et al., 2009a). By doing so, they miss a great deal of the historical depth of the transformations of the industry produced by social struggles and implicitly deny any relevance to CSR in post-neoliberal times.

In order to maintain an historical perspective, we use a wider notion of governance derived from political science where the term denotes all possible forms for governing produced by socio-political interactions between State, market agents and civil societies (see Kooiman, 2003). Studying the characteristics of these interactions could give us a better understanding of the reproduction of power asymmetries within contemporary governance.

Throughout subsection 2.1 we develop a theoretical framework to study mining governance change and the role of corporate behavior therein. In subsection 2.2 we discuss the overall transition

to and from neoliberalism in Latin America before presenting the empirical findings in Section 3.

2.1. Understanding corporate behavior within governance change

Efforts of social, economic and political actors to intervene in government and in the definition of governing images, rules and instruments produce specific forms of regulation, or governance systems. Change in governance systems is therefore a process of institutionalizing specific patterns of multilateral interactions between social and political actors and entities (individuals, organizations, institutions) (Kooiman, 2003).

Conflictive and cooperative interactions unfold on the structural and intentional levels (Fig. 1). The structural level refers to the “material, social and cultural contexts in which interactions come about and into effect” (Kooiman, 2003: 15). These elements provide the resources and constraints within which actors must operate. Following Sabatier and Weible (2007) we take into account the following main elements of the structural level that affect governance interactions in a period of over a decade or more: (i) changes in the constitutional framework that define the basic distribution of roles for actors and procedures, (ii) changes in socio-economic conditions, and (iii) changes in systemic governing coalitions.¹

Processes of conflict and collaboration to influence governance form the intentional level. During these processes non-ephemeral forms of collective organization or policy coalitions emerge. They seek to position their values and interests as the foci of public action by exerting influence over public authorities. These coalitions engage in organized interchanges of policy preferences within a particular area of social regulation that we call governance system or policy subsystem (Fig. 1).

During coalition formation, actors politicize the theories embedded in policy subsystems by defending or challenging existing interpretations of what should be regulated and how that regulation should be conducted. They also mobilize symbolic and material resources creating conditions for the adoption and implementation of their agendas (Sabatier and Weible, 2007).² For instance, market agents and States tend to engage in campaigns to influence public opinion utilizing what they regard as value-neutral techno-scientific knowledge in order to promote development initiatives while minimizing its potential negative impacts, often denying the validity of local opposition on the grounds of lack of technical expertise and value and interest biases (Yearley, 2005).

In the mining industry, market agents are increasingly attempting to redefine their role as economic agents through interactions that highlight their potential contribution in the production of social goods, such as social justice (see Bridge, 2004a). Blowfield (2005) notes that in the past two decades, CSR became the umbrella under which market agents define the meaning of

¹ Given the lack of secondary information about certain aspects of leftist governments in South America we leave out; changes in socioeconomic values and the basic social structure, changes in public opinion towards mining policy, and the impact of policy decisions on other subsystems. We also leave aside the basic attributes of the area problem and the basic distribution of natural resources since our discussion is not centered on how these are used to build policy coalition agendas.

² This study is not exclusively concerned with the flows of ideas and material resources that allow and sustain the emergence of policy coalitions. Our emphasis is on the implementation of CSR principles rather than the processes of diffusion of such principles. The same is valid for transnational campaigns organized by anti-mining coalitions as an element of coalitions formation. Although these are instrumental in the mobilization of resources to influence governance in the national level, we are interested in the effects of advocacy on local governance rather than the details of the construction of this agency. For in-depth discussions on the processes of diffusion refer to Campbell (2009) and Bebbington (2007).

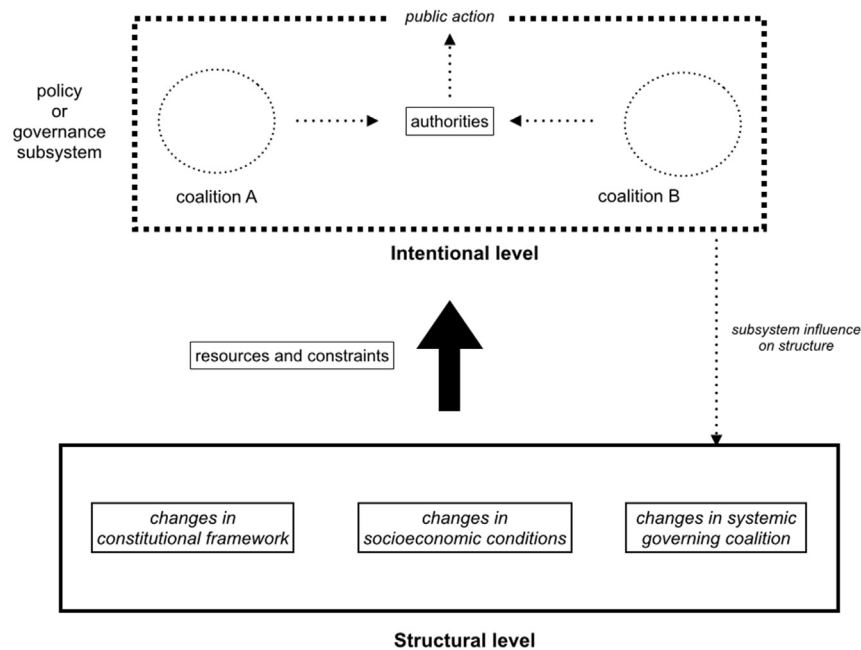


Fig. 1. Diagram of governance system change.
Source: authors

their actions towards the governance of resources and their interactions with other industry stakeholders (see also [Yakovleva and Vazquez-Brust, 2012](#)). In this paper we use CSR as a proxy to the study of corporate behavior, understanding it as strategies constructed in corporate interactions with States and civil societies that serve to influence change over mining governance. CSR strategies include a broad range of activities that are reported to stakeholders in order to show advances in community development, social consultations, climate change mitigation and adaptation, security and safety regulations, biodiversity conservation, indigenous rights, etc., ([Pellegrino and Lodhia, 2012](#)). These strategies gained importance during the early 2000s and continue to grow as the mainstream framework to define and discuss the effects and benefits of mining ([Jenkins and Yakovleva, 2006](#)), as well as community involvement in the industry ([Clapp, 2005](#)).

2.2. The installation and demise of neoliberalism in Latin America

Neoliberal governance was installed when conservative political coalitions (like those supporting Thatcher and Reagan) seized power during the crisis of the Welfare State. These coalitions framed the problems of the existing hierarchical form of State-led governance as one of structural public incompetence in the allocation of resources and the production of social goods. Once in power, they advanced a political program for a deregulated economy in order to free market agents from regulations to effectively allocate resources and produce wealth.

During the oil shocks, the slowdown of the center economies and the financial reforms of the 1970s that lead to structural changes of capital markets Latin America abandoned policies of industrialization by import substitution. This created unsustainable levels of indebtedness and pushed Latin America into a phase of erratic economic programs implemented by authoritarian rule, which took the region to the brink of financial collapse. In this scenario, several countries sought transitions to democratically elected governments, which defended neoliberal governance as the only way out of the crisis ([Thorp, 1998](#)).

Financial support to deal with the debt crisis became available for the region under conditionalities set by international financial institutions such as the International Monetary Fund (IMF) and the World Bank. These pressured for the adoption of short-term measures to reduce inflation and stabilize the regional economies mainly by using monetary policy. To receive foreign investment, countries were called to reduce public spending and replace the State involvement in production, extraction of resources, and the provision of public goods through privatizations ([Grugel, 2009](#)).

Stabilization policies reduced inflation from 223 percent in the 1980s to just 6.5 percent in the second half of the 1990s. Nevertheless, the average economic growth during neoliberalism fell below that of the 1960s and 1970s, throwing 134 million people into poverty and 35 million more into extreme poverty between 1980 and 2000 ([Grugel and Ruggirozzi, 2009:10](#)). The deepening of the crisis of political representation and the development of a top-down market-driven citizenship caused the emergence of demands for a post-neoliberal political matrix to transform the relationship between the State, the market and civil society.

In Section 3, we show how socioeconomic conditions, constitutional changes, the emergence of new governing coalitions and the formation of pro and anti-mining coalitions in Argentina and Ecuador shaped mining governance during the 1990s and early 2000s.

3. Mining and CSR in Argentina and Ecuador: 1990–2013

Neoliberal reforms to mining codes in developing countries during the early 1990s augmented sectoral competitiveness, attracting the excess of international flows of financial resources to a handful of countries in the global South, with Chile and Peru leading in South America ([Bridge, 2004b](#)).

Legal and administrative reforms adopted the prescriptions of the “modern mining code,” a set of principles proposed by the World Bank. The code seeks to privatize State-owned mining assets, establish conditions to attract private sector finance and to shift the focus of State activities away from ownership and operation of mining projects and towards the regulation and administration of

the mining sector. Reforms also pursued the introduction of environmental and social regulations and the development of institutional capabilities to help bring about sustainable mining development under the principles of Agenda XXI (Onorato et al., 1998).³ Reforms made the expatriation of profits very flexible and eliminated the need to buy local inputs or hire local labor. They also introduced compensations for expropriation and international arbitration over disputes between States and foreign companies (Hilson and Haselip, 2004) and increased the supply of land for exploration making land rights highly accessible and transferable (Bridge, 2004b).

Three waves of reform took place in the region under these policy prescriptions. Between 1991 and 1995 Argentina, Cuba, Ecuador, Guatemala, Mexico and Peru reformed their mining codes. Between 1996 and 1999 Brazil, Bolivia, Guatemala, Honduras and Venezuela concluded their reforms. Colombia, Nicaragua and Ecuador started a third wave in 2000.

Neoliberal reforms increased budgets for exploration from almost USD 200 million in 1990 to USD 1278 million in 1997 (Metal Economics Group in Campodónico and Ortiz, 2002: 43). Extracted volumes grew at a rate of 5% annually while the rest of the world grew only 1.2% in the same period (Kouzmine, 2001). Nevertheless, by the end of the 1990s, the mining industry was facing accusations of human rights violations and environmental damages virtually everywhere in the global south (Hilson and Haselip, 2004). The industry, mainly based in Canada, engaged in campaigns to demonstrate its positive contribution to sustainable development embracing a discourse of corporate responsibility towards host societies and local populations (North and Young, 2013).

In subsections 3.1 and 3.2 we show how this turn to corporate responsibility in Argentina and Ecuador prevented stakeholder participation in decision-making over mining governance. First, we present the structural elements embedded in coalition formation processes, then we review the characteristics of CSR under enhanced State participation in the mining sector.

3.1. Argentina

Three elements of the structural level shaped the emergence of neoliberal mining governance in Argentina; (i) the constitutional reform of 1994 (ii) the economic and political crisis of the late 1990s and early 2000s, and (iii) the emergence of a left-of-center governing coalition headed by Néstor Kirchner in 2003. We review these elements below.

3.1.1. Constitutional changes

The continuity of the neoliberal policies adopted during the military dictatorship in the late 1970s in Argentina was secured by a political pact within the political class headed by Unión Cívica Radical (UCR) and Peronismo. This pact sought to strengthen presidentialism, increase UCR's representation in the Senate, reform the constitution and allow the re-election of Carlos Menem in 1995. The constitutional reform of 1994 defined two important provisions for the latter development of mining conflicts; It established shared responsibility in natural resource management by the federal and provincial governments, and, following the principles of sustainable development, introduced the right for a healthy environment (Welp, 2008).

³ It is worth mentioning that Agenda XXI, promoted by the United Nations, identifies two pillars to achieve sustainable development; sound environmental practices and social participation. The latter, is directed towards the identification of potential benefits and disadvantages of development activities and the negotiation of the best ways to balance, social, economic, and environmental goals.

3.1.2. Socio-economic conditions

Political elites launched programs of privatization, deregulation of finance, convertibility (parity between the US dollar and Argentinian pesos) and constant fiscal adjustments to reduce State intervention on the economy and attract foreign investments. The economic model threw 12 million people under the poverty line between 1975 and 2001 when the population of Argentina rose from 22 million to 37 million (Seoane, 2013).

The reduction of budgets for education and massive layoffs of public servants as part of structural adjustment were instrumental to maintain payments to the external debt contracted in the 1970s and to sustain the convertibility regime. The defense of this model by the financial faction of the political elites, combined with high levels of unemployment and poverty, triggered social unrest and a political crisis that led to the resignation of President De la Rúa in late 2001. During a decade-long crisis of representation, local organizations and non-partisan assemblies, such as the movement of the unemployed or "piqueteros," gained larger prominence in the political scenario demanding more participative democracy (Seoane, 2013). Later these organizations served as the grassroots for anti-mining organizations in several provinces.

3.1.3. Change in systemic governing coalition

The election of Nestor Kirchner as president, with 22% of electoral support in 2003, marks the beginning of a partial transition away from the neoliberal politics installed in the 1990s. The new governing coalition rejected the neoliberal economic and political program, calling to revise Argentina's relation with international financial institutions, especially the World Bank and the IMF, and pursued a strong agenda against human rights abuses. Nevertheless, it was only after 2005 that Kirchner implemented policies for economic redistribution to alleviate the effects of the neoliberal period (Boron, 2004). Aided by booming commodity trade, the Kirchner-Fernández governments (2003-current) have significantly reduced economic inequality allocating vast sums of resources to the middle and lower classes with a combination of sustained increases in salaries and subsidies on production and consumption and various forms of universal transfers (Montecino, 2012). Such measures increased the importance of consumption for economic growth (Vivares et al., 2009) and partially explain the political legitimacy of the Kirchner program in the middle class, especially after the partial defeat in the parliamentary elections of 2009 following the 'agrarian conflict' (see Svampa, 2013).

The Kirchner-Fernández governments have received support from those political elites that sponsored neoliberalism, such as right-wing Peronism and the pragmatic wing of the labor movement, especially since 2005 (Svampa, 2013). Nevertheless, the first years of Kirchnerism and its discourse of social inclusion strengthened the structure of political opportunities open by the political crisis of the 1990s. Local organizations were eager to take advantage of these opportunities to reinforce their anti-mining agenda, as we will see below.

3.1.4. Interactions leading to changes in mining governance

The Argentinian government and the World Bank started the neoliberal reform of the mining sector enacting the Mining Investment Regime (Law 24.196) in 1993. Under the *Mining Development Technical Assistance Project*, this pro-mining coalition restructured sectoral institutions according to the 'modern mining code' increasing foreign investments from just USD 10 million in 1990 to USD 7300 million in 1993. Mineral production grew from USD 350 million to USD 16,650 million and mineral exports from USD 35 million to USD 12,375 million in the same period (Secretaría de Minería de la Nación, 2009).

During the mid 1990s, communities and local governments were keen to receive mining investments due to the dismantling of their regional economies triggered by privatizations and trade liberalization (Svampa and Pereyra, 2003). The first large-scale mining project in Argentina, the Bajo La Alumbrera copper-gold mine, located in the province of Catamarca initiated operations in 1994. Machado Aráoz (2009) reports how, before the beginning of extraction, the provincial and federal governments launched a campaign to advertise the potential benefits of the large-scale mine. Under the umbrella of corporate responsibility strategies, companies, national and provincial governments, the academia, and other pro-mining organizations deployed symbolic and discursive strategies that instilled mining as a potential primary source of employment and indisputable contributor to local economic development (Antonelli, 2009). Nevertheless, despite some positive effects on economic performance of the province of Catamarca (mainly the increase in exports), the impact on employment generation and the contribution to the local economy was very modest. The mine employs only 50 out of the 14,000 inhabitants of the nearest town of Aldagalá. Therefore, local anti-mining organizations started questioning the indispensability of engaging in large-scale mining (Machado Aráoz, 2009).

Six years after the opening of the mine, local assemblies started calling attention to the effects of the acid rains produced by the use of explosives, as well as on the deficit of public investment of mining royalties (Svampa et al., 2009b). Minera Alumbrera and the local government tried to counteract protests by hiring temporary local labor, which generated even greater rejection from local assemblies. These started a campaign to make the effects of Bajo La Alumbrera known in other provinces, triggering other processes of opposition to mining.

In particular, the conflict in the town of Esquel in the province of Chubut, proved instrumental to the formation of an anti-mining coalition in Argentina. A multi-sectoral assembly concerned with the potential environmental impacts and the use of cyanide in Esquel organized demonstrations against mining in 2002 after conducting an analysis of official information about the project determined flaws in the assessment of the future effects of the mine on water and local economic activities (Marín, 2009).

Demonstrations pushed the local government to accept the assemblies' proposal to organize a referendum regarding the installation of the mine. Resulting in 81% of voters rejecting the mining project (with 75% turnout), this initiative pressured the provincial legislature to enact Law 5.001 to ban open-pit mining in March 2003.⁴ After the referendum, the mining company Meridian Gold conducted a study on public opinion about the project, identifying the company's inability to establish meaningful dialog with local stakeholders about the risks and potential benefits of the project as the main cause for local opposition (Marín, 2009).

With the rapid increase in projects, other local anti-mining assemblies formed between 2003 and 2005 and launched the Network of Communities Affected by Mining (CAMA, for its initials in Spanish). Svampa et al., (2009a: 45) argue that, "these assemblies are heterogeneous and multi-sectoral in character with a strong presence of middle classes (professionals who manage independent expert knowledge), peasants and indigenous organizations [...]. These processes of mobilization are producing a conception of territoriality in opposition to the eco-efficiency discourse and the developmentalist vision of the dominant narrative." These

assemblies coordinated actions through CAMA in order to put more pressure on provincial authorities to ban activities essential for the development of open-pit mining, such as the use of mercury and cyanide.⁵

In 2006, CAMA joined organizations from other environmental struggles grouped under the Union of Citizen Assemblies (UAC, for its initials in Spanish) during a counter-summit to the Meeting of Presidents of MERCOSUR in the city of Cordoba. The central demand of UAC was the inception of democratic spaces for decision-making over large infrastructure, oil and mining projects (Svampa et al., 2009b), and its first coordinated action occurred in 2007 when local communities and representatives of national organizations, such as the Argentine Workers' Central Union (CTA), blocked Barrick Gold's operations in the province of La Rioja.

The pro-mining coalition responded intensifying CSR to advertise the environmental sustainability of mining, effective compliance with the law and the benefits received by local communities in mining areas. Education campaigns through teacher training and workshops in schools and universities were key factors in managing opposition in some conflictive areas, not necessarily due to the quality of the information provided (in terms of responding to the anti-mining allegations of unsound environmental practices) but for using the image the public education system to transfer expert knowledge that attributed the externalities of mining to other factors, such as structural poverty (Antonelli, 2009). According to Machado Aráoz, several provincial governments rushed reforms to provincial laws in order to raise more revenues from mining, and directed these resources to the extractive areas increasing local bureaucracies. Companies also increased their CSR programs to finance local development projects coopting community leaders and often dividing local opposition (2009:220).

In 2003, the pro-mining coalition (particularly mining companies, suppliers and lawyers) created the Foundation for Development of Mining in Argentina (FUNDAMIN, for its initials in Spanish) in order to defend the advantages of mining. FUNDAMIN also voices their position about social resistance to what they regard as the 'inevitable expansion of the industry' given the favorable natural conditions and the lack of alternatives. During its campaigns, FUNDAMIN defines resistance as the product of fundamentalists who seek to destroy industries for the benefit of certain eco-businesses, such as small-scale farming and ecotourism (FUNDAMIN, 2003). According to FUNDAMIN, a democratic development of mineral resources is one that abides by the law, but references to social participation on decision-making are never made.

The federal government supports FUNDAMIN's campaigns to steer public opinion mobilizing support from public universities (whose academics often have economic interests in mining companies, see Antonelli, 2009) and media. Moreover, provincial governments are increasingly resorting to repression of social mobilization and prosecution of social leaders and activists in order to keep operations running (Cerruti and Silva, 2013).

The federal government reinforced its commitment to the expansion of mining, elevating the sectoral regulatory agency to the level of National Mining Secretariat. This Secretariat is now part of the Federal Ministry for Planning created in 2003. This is a super-ministry that incorporates the regulators of strategic sectors under one coordinating body in order to rationalize the use of resources and increase the efficiency of strategies towards policy objectives.

⁴ This law also mandated the identification of zones where mining activities could take place. The provincial authorities never defined the location of these so-called 'zones of sacrifice' but allowed the installation of other projects such as Navidad and Calcatreu (Marín, 2009).

⁵ These provinces enacted laws to ban large-scale mining; Río Negro (2005 – repealed 2011); La Rioja (2007 – repealed 2008); Tucumán (2007); Mendoza (2007); La Pampa (2007); Córdoba (2008); San Luis (2008); Tierra del Fuego (2011).

In January 2004, Nestor Kirchner presented the National Mining Plan declaring the promotion of mining as a high-priority State policy and as a strategic element in the construction of a new political project. The main objective of the plan was to allow sustained growth of the mining industry in Argentina by attracting investment for more projects to increase mining revenues (Plan, 2009). For our discussion, the most salient characteristic of this plan is that it ignores the existence of rejection of CSR practices and demands for democratic decision-making.

In 2008, CSR strategies intensified the use of private media to create what Antonelli calls “spaces for alphabetization” (2009: 56). In these spaces, mining companies expose the self-proclaimed neutral techno-scientific knowledge of academics to discredit resistance against the transformation of Argentina into a “mining country”. The government supported this strategy and defended the industry’s record on environmental protection. Nevertheless, in late 2008, President Fernández vetoed a clause of the new Glaciers’ Protection Act that prioritized the inventory of glaciers under threat by extractive industries, especially those related to the Pascua-Lama bi-national project operated by Barrick Gold, which faced fierce opposition by local communities in Argentina and Chile.⁶ Despite government support for this project in Argentina on the basis of Barrick’s responsible environmental and social performance, in September 2013, the Chilean constitutional court decreed a halt on Pascua-Lama for unsound technical practices, specifically for the damage to local glaciers and the negative effects on the health of people in the valley of Huasco (Noalamina, 2013).

In February 2012, the Federal Ministry for Planning and ten provincial governors created the Federal Organization of the Mining Provinces (OFEMI, for its initials in Spanish)⁷ to define a common position about provincial participation in the distribution of mining royalties and design strategies to manage social resistance against mining. OFEMI does not consider debates on the current effects of large-scale mining or the economic and political conditions of the development of the industry in its strategy.

Since the neoliberal reforms of the early 1990s, Argentinian governments have supported a system of governance that regards economic interests over the demands for more democratic decision-making. The pro-mining coalition has used CSR to define the role of mining companies in the communities by claiming an apolitical perspective towards the distribution of benefits and externalities. On a societal level, they craft public opinion by labeling opposing groups as “radicals” who put the industry under unnecessary stress and reduce its positive contributions.

3.2. Ecuador

Three elements structured the emergence of neoliberal governance in Ecuador since the early 1990s; (i) the economic and political crises of the late 1990s and early 2000s, (ii) the constitutional changes of 1998 and the new constitution of 2008, and (iii) the emergence of a leftist governing coalition headed by Rafael Correa in 2007.

3.2.1. Changes in socioeconomic conditions

Beginning in 1981, a neoliberal economic model was pursued through partial privatization of the strategic sectors (oil, electricity and communications), renegotiations of external debt favoring creditors, reductions in public investment, and salaries and de-regulation of the financial sector (Ruiz and Cisneros, 2014).

Between 1996 and 2005, Ecuador’s political regime became unstable, when the highly fragmented and polarized political system collapsed while the legislative and the executive branches clashed over interventions on the judicial branch of government. This crisis of political representation coupled with social unrest, caused by the effects of the economic model and the financial crisis of 1999, provoked a succession of six presidents between 1996 and 2005. The financial crisis originated with de-regulation and the expatriation of large sums of saver’s money to tax havens that reduced liquidity. Economic and political elites forced a State bailout to the banks legitimizing an expropriation of wealth that increased poverty from 45% in 1998 to 69% in late 1999, while the concentration of income deepened. The richest 10% received 35.4% of national income in 1990, and 45.3% in 2000 after the bailout. The minimum wage of USD 143.27 dollars per month went down to 44.37 dollars between August 1998 and December 1999 (Salgado, 2004:26–27).

3.2.2. Constitutional changes

After the political turmoil of 1996 that ousted President Bucaram, a constitutional reform was passed in 1998. The reform introduced the figure of the multiethnic and pluri-cultural State recognizing collective rights to indigenous peoples.⁸ It also incorporated diffuse rights to a clean and healthy environment, stated a number of provisions for participatory democracy and decentralization, and changed the party system. The Constitution defined two mechanisms for social participation for environmental management. The first was the right of indigenous peoples to free, prior and informed consultations regarding any administrative decision taken by the State that could harm their culture or the physical environment. The second mechanism referred to the right of citizens to participate in environmental consultations within environmental impact studies. This reform did, however, maintain the neoliberal economic model, setting up the basis for the financial crisis of 1999 (Fontaine and Fuentes, 2011).

3.2.3. Change in systemic governing coalition

Between 2000 and 2003, the Noboa government deepened neoliberalism through various legal reforms, provoking the re-activation of social mobilizations leading to the election of Lucio Gutierrez in 2003 with support from the indigenous and peasant movements and other political forces of the left. This coalition disbanded in 2004 given Gutiérrez’s alignment with Free Trade Area of the Americas. Seeking to create a new governing coalition, Gutierrez joined right-of-center parties to restructure the Supreme Court of Justice, triggering an uprising in Quito, which ended in Gutierrez fleeing the country. Vice-president Alfredo Palacio assumed the presidency in 2005 and led a failed attempt to reform the constitution to define a new economic regime, due to lack of support in congress.

Rafael Correa resumed the project of a new constitution in 2007. Elected with 57% of valid votes, his campaign was organized by the diverse, mostly left-of-center coalition of Acuerdo País (later Alianza País). The governing coalition gathered popular support by confronting traditional political parties and increasing public spending with extraordinary oil revenues. It also reformed the payment of external debt and strengthened regulations to the

⁶ Law 26.639 on the protection of glaciers was finally approved in 2010 but the by-laws for the application of the glacier inventory weakens its implementation.

⁷ OFEMI includes the provinces of Jujuy, Salta, Catamarca, La Rioja, San Juan, Mendoza, Neuquén, Río Negro, Chubut y Santa Cruz.

⁸ The indigenous movement became a prominent political actor in the early 1990s when massive mobilizations demanding equal treatment, recognition of difference and collective titles of ancestral lands paralyzed countryside-city interactions on several occasions (1990, 1994, 1997). By 1996, the indigenous movement had captured several subnational governments and seats in the legislative through its political arm Pachacutik in coalition with movements from the political left. In 1998, the indigenous movement participated in the constitutional reform.

financial system (Weisbrot et al., 2013). According to Conaghan (2008), between 2007 and 2008, Correa built a model of plebiscitary presidency using permanent electoral campaigns to legitimize governmental policies and delegitimize the contentious politics of the indigenous movement. Correa managed to create a political movement with no intervention from traditional political forces to write a new constitution obliterating all political contenders, which received less than 40% of the national vote to be part of the Constitutional Assembly.

In 2008, a new constitution approved by referendum expanded the catalog of rights, including rights for nature to regenerate its vital cycle. According to Fontaine and Fuentes (2011:259), the most salient feature of the constitutional change of 2008 is the creation of the National Secretariat for Planning and Development, which is a sort of plenipotentiary ministry and is indicative of the installation of a bureaucratic-centralist political regime despite numerous constitutional provisions for social participation.

3.2.4. Interactions leading to changes in mining governance

In the late 1980's there was no industrial metal mining in Ecuador. The last commercial operation located in the district of Zaruma-Portovelo was abandoned due to raising production costs in the late 1970s. In 1989, Rodrigo Borja's administration (1988–1992), with support from the World Bank under the *Development and Environmental Control Technical Assistance Project*, initiated a process of sectoral modernization, sponsoring a new mining law.

The legal reform of 1991 steadily increased the number of concessions for exploration from 616 to almost 2000 until when the financial crisis in Southeast Asia reduced budgets for exploration worldwide in 1997 (Cisneros, 2011: 156). In 2000, Noboa's government deepened sectoral liberalization with a new legal reform, eliminating royalties and increasing tax exceptions in order to attract foreign investment. The number of areas under concession grew rapidly between 2001 and 2003, pushing the sectoral authority to abandon controls on mining operations (related to the verification of investments) as growing administrative tasks overwhelmed the existing staff (Liebenthal et al., 2003).

Anti-mining campaigns prevented several large-scale prospects to enter the exploration phase during the neoliberal reforms. The most salient cases are Podocarpus and Íntag. In 1993, the local NGO Fundación Arcolris filed a constitutional complaint against Rio Tinto Zinc for exploring in the Podocarpus national park. The Constitutional Tribunal banned exploration activities due to its potential future impact on the rainforests. In 1997, communities from the humid forest of Íntag challenged the potential impacts of a large-scale mining project. They demanded discussions with sectoral authorities, but when they failed to respond, the communities expelled the Japanese company Bishimetals by force (Cisneros, 2011).

The pro-mining coalition, headed by the government, the World Bank, mining companies, and the Canadian International Development Agency, responded to these campaigns with the "International Conference on Mining and Communities" held in Quito in 1997. The conference's main objectives were to "(a) diagnose the various problems associated with mining and the community; and (b) to propose practical approaches and solutions to the problems or conflicts identified" (McMahon, 1998). Discussions on the political implications of opposition to large-scale mining were held along the lines of the importance of increasing informative campaigns about the role of modern technology to minimize environmental risks. Nevertheless, community representatives and NGOs involved in anti-mining activism were not invited to the conference.

After the legal reform of 2000, a national round table convened by the sectoral authority met to discuss interactions between local

populations and mining companies. This time the round table heard community representatives call for strong State control over the industry's CSR strategies. Community leaders understood widespread conflicts between communities and companies, and also among communities, as a product of the lack of consultation processes and corporate-community agreements, which previously only included the clientele of the mining companies (Cisneros, 2011).

Mobilizations against large-scale mining intensified between 2005 and 2006 in response to the use of violence by companies and the presence of military personnel safeguarding mining campsites. Nevertheless, State institutions remained unresponsive to social outcry (CEDHU, 2010). During the electoral campaign of 2006 and his first months in the presidency, Rafael Correa called for a sectoral reform to increase State control of the sector. In early 2007 he stated; "The problem over mining is very grave. There are areas where we are at the verge of civil war [...] some mayors need to request permission from mining companies to build sewage systems. That is absurd" (*Diario la República*, 2007).

In April 2007, the sectoral authority initiated a dialog with mining guilds and local communities to draft a new mining law. Anti-mining organizations gathered in the National Coordinator for the Defense of Life and Sovereignty (CNDVS) demanded a halt to CSR activities as a condition to join the dialog. The government rejected this condition adducing future legal retaliations in international courts (Adital, 2007) and launched a campaign portraying the anti-mining coalition as a group of "childish ecologists" that reject development and support the right-wing opposition to renewed State-led governance. Rafael Correa again; "It's absurd to be sitting on top of hundreds of thousands of millions of dollars, and to say no to mining because of romanticisms, stories, obsessions, or who knows what" (Rafael Correa, October 11, 2008).

CNDVS turned the anti-mining campaign towards the National Constitutional Assembly pressuring for a constitutional mandate to revert mining concessions overlapping protected areas and indigenous territories. In April 2008, the Assembly reverted 88% of the existing concessions based on a technical report issued by the sectoral authority. Meanwhile, companies lobbied to keep regulations at a minimum to preserve Ecuador's competitiveness in the region but lacked political leverage to advance their agenda. The government reverted only those concessions where no investments had been made, but maintained the most economically promising projects.

A new mining law passed in January 2009 created a national mining company and limited private participation in the mining sector to exceptional circumstances. It fixed the percentage of State revenue to no less than 50% of total income produced by mining activities and raised the payment of royalties to no less than 5% (the regional average at the time was around 3%). Among other provisions, environmental consultations and other forms of social participation, such as CSR, fell completely under State regulation.

Two months after enacting the law, the government initiated a campaign to inform local communities that existing CSR strategies would be incorporated into State social programs on health, public works and education. This campaign was based on the idea that civil society engagement would take effect in these new governance systems since "mining rights holders are requested to hire a minimum of 80% national labor [...] hence organized civil society will directly or indirectly participate in the industry" (Consejo de Minería Responsable, 2009: 1) but no mentions of debates on the desirability of mining as the new powerhouse of development were made.

In mid 2009, the National Secretariat for Planning and Development coordinated the first State-regulated CSR experience during the implementation of the "emergency plan for Fruta del Norte

concession” by which the Ministries of Education and Public Health absorbed Kinross Aurelian Corporation’s CSR program to support schools and health posts in the company’s area of influence (Kinross Gold Corporation, 2011). The government also started a campaign to legally prosecute community leaders, especially those heading CNDVS, accusing them of using terrorism to make their voices heard (CEDHU, 2010). Nevertheless, local organizations supporting mining state that, “despite its discourse of responsibility the government has repeatedly denied a broad provincial debate to define the extent of the growth of the mining industry and the appropriate mechanisms to attain institutional strength for control of future operations” (Rubén Naichap, Shuar Federation of Zamora Chinchipe, 2010, pers. com).

With CNDVS almost disbanded, a new cleavage between companies and the government emerged around the issues of law enforcement, royalties and windfall taxes. For Vicente Encalada, president of the mining Chamber of El Oro province, “[...] the existing law mandates bilateral negotiations between the government and the companies on each project. [...] Moreover, companies feel uncertain about their contracts being respected by the next administration” (Bureau de análisis, 2011). In June 2013, Kinross Gold Corp left the country announcing that negotiations with the government did not produce agreements on investment protection and key economic and legal terms to balance the interests of all stakeholders (Kinross, 2013). In order to improve conditions for foreign investment, a legal reform was passed in May 2013.⁹ Nevertheless, the National Environmental Assembly of Indigenous and Peasant communities of Ecuador considers that reforms were not sufficiently discussed, especially in regard to their impact on the economies of extractive areas (El Mercurio, 2013).

Recent advancement in exploration in areas such as Íntag, where the new National Mining Company (ENAMI, for its initials in Spanish) expects to resume the project stopped in 1997 with the Chilean company CODELCO, have revived the pro-mining discourse of the 1990s where, “in order to develop mining projects, it is necessary to comply with the law, use natural resources with extreme care under environmental licenses, and using remediation and top-of-the-line technology” (ENAMI, 2013a). This vision, supported by the increase of public investments in mining areas, leaves no room for discussion on how the mining projects could alter local economic activities. Instead, those demanding the institutionalization of studies on the potential impacts of mining from an ecological economics point of view are still considered “violent protesters who live in the past and defend their eco-hostels” (ENAM, 2013b).

It is clear that even after recognizing the deleterious effects of neoliberal CSR, the new policy has not been able to define how CSR activities should develop under State-led governance. For instance, the National Plan for Mining Development published in 2012 does not mention specific mechanisms for State regulation of consultations and community participation in mining projects. Moreover, since 2010, at least three institutions have assumed the responsibility to oversee corporate-community interactions, none with permanent staff or clear mandates. The ambiguity of Correa’s government on CSR also led to the dissolution of the Council for Responsible Mining, which was created in 2008 by mining companies to transmit the concept of a responsible mining industry, in

coordination with the government and other social actors, to find a road to modern and responsible mining.

4. Discussion and conclusion

We have shown how that during the adoption of the sustainable development agenda and the emergence of a general corporate orientation towards social responsibility in the late 1990s, interactions between mining companies and governments constructed a form of mining governance that rejected civil society’s demands for enhanced participation in decision-making. We have also seen how despite embedding CSR in broader State policies for sectoral development during the turn to the left, governing coalitions in Argentinian and Ecuadorian governments are still supportive of the logics of neoliberal CSR. Especially in Argentina, companies actively use CSR to dismiss alternative interpretations of the negative effects of mining. In Ecuador, the government has subsumed this task but still uses the language of responsibility of international mining partners who can develop a modern industry.

The power acquired by mining companies during the neoliberal reform has limited the ability of left-of-center governments to alter the role of CSR in mining governance. While in the 1990s Argentina effectively launched large-scale mining, Ecuador was still gathering geological information about its mining potential. As a consequence, mining companies have been able to push the Kirchner-Fernández administrations to create the material, social and cultural conditions to implement the legal reforms started in the 1990s, articulating a strong pro-mining coalition. On the other hand, interactions between the State and mining companies to promote large-scale mining in Ecuador have been more conflictive due to the larger restructuring of the neoliberal model established in the early 1990s.

The strong alignment of companies and State in Argentina has been responded with the escalation of local conflicts to nationwide campaigns demanding a moratorium on the further expansion of the mining frontier, as seen in the campaign in support of the Glaciers’ Protection Act. On the other hand, the rise of State-led governance and the partial incorporation of demands by civil society in Ecuador have led to the demise of the pro-mining coalition.

In conclusion, when we include the changes and continuities in corporate behavior in the study of post-neoliberal governance, we are able to show some of the limits of renewed State interventionism but also identify some dynamics limiting the contribution of civil societies to the construction of new forms of governance. A governance analysis of the experiences of Argentina and Ecuador with CSR confirm that post-neoliberal political matrixes are diverse and that challenges in terms of steering corporate behavior in the construction of more democratic governance systems are considerable.

Countries with underdeveloped large-scale mining that separate from the neoliberal orthodoxy may reduce company’s interest in developing their sectors. These countries nevertheless would have to deal with the social expectations that mining operators, either private or public, behave in a responsible way engaging in meaningful dialog to develop a mining industry. On the other hand, when countries with relatively large mining sectors remain loyal to the ‘modern mining code’ they may end up supporting what seems to be an unsustainable set of practices of exclusion of civil society.

Our study shows that taking full advantage of the opportunity open by the responsibility orientation of the mining industry under the sustainable development paradigm requires a transformation of State practices in order to balance the use of mechanisms necessary to capture rent (taxation and royalties) with those

⁹ Between 2009 and 2013 only one extraction contract was subscribed. In March 2012, Ecuacorriente, a company with a majority of Chinese capitals bought the Mirador Project in the Amazon region. In response to this contract the indigenous movement and some CNDVS leaders organized the March for the Defense of Water, Life and Dignity of the Peoples. In 2013 former members of CNDVS filed a constitutional protection action against the Mirador project which is still under revision.

needed to build more democratic governance systems (participation). Accepting the political nature of mining governance would be a first step in this direction; it could create an opportunity to open spaces for debate where actors recognize each other as valid interlocutors and build compromises towards the shared goals of fighting poverty, while protecting the environment and strengthening democracy.

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