

Assessing the applicability of an environmental justice framework to corporate social responsibility in the Canadian extractives industry

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The Canadian extractives industry faces uneven adoption of corporate social responsibility (CSR) practice, and unclear roles and responsibilities for corporate, government, and civil society actors. This is resulting in unjust corporate activity in areas of operation, especially in the developing world where drivers of CSR are weaker. The goal of this report is to describe the applicability of an environmental justice (EJ) framework in addressing these issues of CSR, in the hopes of providing a jumping-off point for the industry-wide adoption of a universal CSR framework which ensures that justice is done to all relevant stakeholders in extractives activities. Through document analysis of the English-language literature on CSR, EJ, and associated actors, including an illustrative case study of the Marlin mine in Guatemala, it was determined that environmental justice is well-suited to describing failings of CSR practice. Given this, and the simplicity of the EJ framework, it is proposed that EJ could potentially guide development and implementation of future CSR programs. The justifications for and limitations of CSR will be described, followed by an illustration of the applicability of EJ to CSR practice using the Marlin mine case. Incentives for participation by government, corporate, and civil society actors will then be outlined, as well as the proposed roles of each of these sectors in CSR planning, implementation and enforcement.

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Introduction

Corporate social responsibility (CSR) is a nascent field, in a “pre-paradigmatic phase, where there is little agreement on definitions and terms, and no consensus has been reached about what it includes and does not include in its boundaries”(Googins et al., 2007) . CSR takes its roots in ethics, and thus stresses the importance of moral corporate conduct (Mirvin, 2012). A tentative definition of CSR might include the duty of a corporation to acknowledge the effects of all its activities on society and the environment, and attempt to minimize harm and maximize social, economic, and ecological benefits to all stakeholders, similar to the triple bottom line approach described by Elkington (1998). A corporation with an interest in social responsibility must, at the very least, comply with current laws, accepted business principles, and codes of conduct governing CSR. Under the current conception of the corporate entity, however, the corporation has no obligation to act independently for the common good, and may in fact be committing an injustice to its stockholders if it spends their money to do so (Friedman, 1970).

Since 2005, the Vancouver-based mining corporation Goldcorp (formerly Glamis) has operated the Marlin gold mine in the Western Highlands of Guatemala, 300 kilometres west of Guatemala City. This project is carried out through Montana Exploradora, a subsidiary of Goldcorp incorporated in Guatemala. The Marlin mine employs approximately 2000 people, the majority of whom are Guatemalan (Murphy and Vives, 2013). The region is home to two Indigenous Maya groups, the Mam and Sipakapense people. Supporters of the project argue that it has brought jobs and critical infrastructure such as roads, health clinics, and schools to the area. Opponents of the project include local Indigenous groups, human rights NGOs, and other civil society organizations. They make the case that health concerns and environmental harms

are not being properly addressed, and that human rights violations are being carried out in the name of economic development.

In early 2005, a referendum held by residents of the municipal council of the communities of Sipacapa allowed local adults to vote for or against the Marlin project. Ninety-nine percent of voters were against the project, but the result, which was originally to be legally binding, was overruled by the Constitutional Court of Guatemala (Imai et al., 2007). Since the project began operations, requests to suspend mining activity have been submitted by the International Finance Corporation, International Labour Organization, and Inter-American Commission on Human Rights (Murphy and Vives, 2013). Despite these voices of discontent, the Government of Guatemala has continued to honour the exploitation license granted to Montana Exploradora in 2003.

Though the Marlin mine remains legally acceptable, the project could be described as a source of environmental injustice. Fair and equitable distribution of environmental goods and ills are absent, as are fair and equitable access to the procedure of development, and recognition of the values, perceptions, and lived experiences of all those affected by the project.

Using Goldcorp and the Marlin mine as a case study, document analysis was employed to determine the applicability of an environmental justice framework to conceptualization, implementation and enforcement of corporate social responsibility in the Canadian extractives industry, and the roles of the corporation, government and civil society in carrying out CSR. Review of English-language internet and library sources regarding CSR, environmental justice, the Marlin mine, and associated actors was carried out, and results analyzed using an environmental justice framework. The goal of this research is to make explicit the incentives for participation by each set of actors, and the potential nature of participation in CSR based on an

environmental justice framework, in hopes of making inroads to industry-wide adoption of a universal CSR framework.

Through document analysis it was determined that there is hope for developing a working CSR framework based on the principles of environmental justice. To follow are a brief discussion of methods employed in generating this report; an overview of existing literature on the subjects of environmental justice and CSR, including an illustrative case study; proposed incentives for and roles in participation in such a program for private, public, and civil society actors; conclusions; and discussion of potential problems with this report and next steps.

Methods

Document Analysis

Document analysis was employed in the generation of this report. Once research goals and scope were clarified, the English language literature was examined for archived information on CSR, environmental justice, the Marlin mine, and associated actors, from internet and library sources. Internet searches were carried out through the Google Scholar search engine. Targeted literature sources included peer-reviewed journal articles and printed books, publications and press releases from Goldcorp, and publications from government and civil society organizations. For a list of inclusion and exclusion criteria employed, see Table 1. Collected information was synthesized and analyzed using an environmental justice framework, based on principles described in Table 2.

Table 1. Inclusion and Exclusion criteria for document analysis

Inclusion Criteria	Exclusion Criteria
- Trusted source (either peer-reviewed or	- Strong potential bias (vested interest in

<p>published by an uninterested government or civil party) or corroborates with trusted source.</p> <ul style="list-style-type: none"> - English-language publication regarding any of the following: <ul style="list-style-type: none"> - CSR - Environmental justice - Marlin mine - Goldcorp/Glamis as pertaining to the Marlin mine - Government, corporation, and civil Society topics pertaining to CSR, environmental justice, and/or the Marlin mine 	<p>outcome; history of grievance between author and subject; etc.) and does not corroborate with trusted source(s)</p> <ul style="list-style-type: none"> - Published in a language other than English (translations accepted) - Veracity has been reasonably questioned by a trusted source
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In the analysis of the Marlin mine case, information regarding issues of justice surrounding the mine was categorized using the three principles of environmental justice. Based on the general goodness of fit between the Marlin case and these principles, it was determined that environmental justice can accurately describe issues of CSR in this case of extractives industry activity.

Table 2. Three Principles of Environmental Justice (Modified from Walker and Day, 2012)

Distribution	Equitable distribution of environmental goods and ills according to the needs and wants of all stakeholders.
Recognition	Recognition by all stakeholders of the values, perceptions, and lived experiences of all those affected by development.
Procedure	Fair and equitable access for all those affected by development to participation in the decision-making processes of development.

Based on this analysis and further literature review, the roles and incentives for participation by government, private, and civil society sectors in environmental justice-based CSR were developed. Roles and incentives were designed to be attractive to each set of actors in

turn based on their individual driving motivations (discussed further in the relevant section) while fulfilling the principles of an environmental justice framework.

Literature Review

The following is an overview of the current state of the literature on CSR, including the justifications and limitations of CSR, and the state of environmental justice and CSR in the case of the Marlin mine in Guatemala.

Corporate Social Responsibility: Justifications and Limitations

According to Slack (2012), corporations often go to great lengths to market their commitment to CSR, but their implementation of stated principles, especially in the developing world, is questionable. The stated CSR policy of Goldcorp (2013) is a commitment to “respecting the safety and health of our employees, protecting the environment, respecting the human rights of our employees and the residents of communities in which we operate, and contributing to the sustainable development [of] those communities”. Taking such a stance is an important aspect of the public relations of Goldcorp, which benefits financially from a positive public image (Slack, 2013). According to Slack (2012), however, CSR is often “window-dressing”, not integrated into the business model, but serving to mollify public opinion and concerns over the inherently destructive nature of the extractives industry. In the developing world, poor government oversight may give the extractives industry a *carte blanche* to publicly promote CSR while violating its principles in practice.

A corporation is defined as a legal entity with the ability to accrue profits and debts- an “artificial person” (Merriam-Webster, 2013). The purpose of the corporation is to provide a

means of limiting liability to business owners, in order to stimulate economic activity: if a corporation is bankrupted, the assets and credit rating of the business-owner are not affected, so they have a smaller disincentive to risk-taking activities. According to Friedman (1970), because a corporation is an artificial person, it can have “artificial responsibilities”, but is not subject to the same absolute moral responsibilities as a true person.

In a free-enterprise, private-property system, a corporate executive is the employee of the owners of the business, with a direct responsibility to these employers (Friedman, 1970). Presuming the corporation is not a hospital, school, or other non-profit organization, the executive’s primary responsibility is usually to make as much money as possible for stockholders while conforming to the basic societal rules set out by law and ethical custom. To say that the corporate executive has a “social responsibility” to the good of society means that he must act in some way that is not in the best interest of his employer, for the benefit of the greater good. To do so is to spend someone else’s money for a social interest: the stockholder’s money in the form of reduced returns, the employee’s money in the form of reduced wages, or the customer’s money in the form of increased prices. This is to impose a tax of sorts, without allowing those paying the tax to decide where it is applied. According to Friedman (1970), taxation without representation is ill-advised both in principle, as it is unjust to the taxpayer, and practically speaking. Despite his experience in earning money for stockholders, the corporate executive may not be qualified to decide how best to apply corporate funds to social issues-reducing inflation, for example, or eliminating environmental pollution. Another practical concern for the socially responsible corporate executive is job security: even ignoring ethical concerns and arguments of efficacy, the corporate executive remains an employee of the owners

of the company. If he is not fulfilling his promise to maximize profits, what is to stop the owners from replacing him with a more cooperative individual?

The outcome of this line of reasoning, then, is that it is incorrect to speak of corporations as having true moral responsibilities to society, and it is unjust to ask corporate executives to spend their corporation's money on CSR if it does not directly improve the profitability of the company. This argument may appear to have eliminated CSR as a possibility; however this is not the case. As Friedman (1970) argues, a corporation is an artificial person. This eliminates the possibility of it holding a true moral obligation; however it retains the capacity for artificial moral obligations, in the forms of law and social custom. Because the corporation is a legal entity, it is obligated to uphold the laws of the country in which it is incorporated. The corporation is also bound to uphold social customs, lest it risk losing its "social license" to operate (Murphy and Vives, 2013). It is therefore possible for society to impose responsibilities upon corporations, and indeed it could be argued that this should be the case, given that it is only through the consent of government and society that corporations exist in the first place.

As will be discussed later, there is a role to play for the corporation, government, and civil society in the design, implementation, and enforcement of CSR. Government sets the rules within which the corporation must act; civil society influences corporate behaviour through consumer activism and lobbying; and the corporation works within the bounds of this social environment to maximize profits in an acceptable fashion, which minimizes harms and maximizes benefits to those which its activity affects.

Environmental Justice as a Framework for CSR at the Marlin mine

According to Lertzman and Vredenburg (2005), and the World Council of Indigenous Peoples (1979), a colonial mindset often leads the extractives industry to view development

purely in terms of economic growth, opposing the indigenous notion of development which recognizes the interdependence of biological and cultural diversity, and regards balanced and limited growth as essential to well-being. Though the World Bank and the International Finance Corporation have attempted to link the extractives industry to development, there is little evidence that it contributes to poverty reduction or policies benefitting indigenous populations (Sawyer and Gomez, 2008; Seton, 1999). Evidence indicates that the extractives industry in general creates social and environmental costs which outweigh economic benefits (Sawyer and Gomez, 2008).

In 1995, after a 35-year period of civil war which killed 200,000 people, the government of Guatemala signed a peace agreement, the “Agreement on Identity and Rights of Indigenous Peoples” (Murphy and Vives, 2013). This agreement guarantees “participation of indigenous communities in the decision-making process of all matters which affect them”. Furthering the rights of indigenous peoples, in 1996 the Guatemalan government ratified ILO 169, a legally binding human rights convention concerning the rights of indigenous and tribal peoples in independent countries (Murphy and Vives, 2013).

ILO 169 (International Labour Organization, 1991) contains many similar themes to those of an environmental justice framework. For example, Article 7 describes the fundamental right of indigenous populations to control their own economic, social, and cultural development, in accordance with their own needs and interests. This mirrors the environmental justice pillar of recognition. Article 15 supports the right of indigenous populations to the natural resources of their land, including the right to participate in the use, management, and conservation of these resources. This echoes the environmental justice pillars of procedure and distribution. Article 16 states that relocation of indigenous populations from their lands shall only take place with their

free and informed consent. Where ILO 169 falls short of the principles of environmental justice, however, is in the field of procedural justice. As noted by Murphy and Vives (2013), ILO 169 does not explicitly state that a community's consent is required for a development project to proceed unless the project will require removal of indigenous populations from their traditional land.

According to Murphy and Vives (2013), ILO 169 has primarily been invoked by local indigenous groups, as well as the supreme court of Guatemala. Goldcorp and the Guatemalan Ministry of Energy and Mines relied primarily on older local laws and regulations, as well as the Agreement on Identity and Rights of Indigenous Peoples, in guiding their approach to consultation and interaction with local groups. It is possible that a mutually agreed-upon framework for protecting the rights of indigenous populations could have allowed clearer identification of potential injustices by Goldcorp, the Guatemalan government, and local groups. This might have led to implementation of better-designed steps to prevent or ameliorate these injustices in the case of the Marlin mine.

Environmental justice provides a suitable framework for discussing CSR in the extractives industry, for several reasons. EJ is a simple framework, easily interpreted and applicable across a broad range of situations thanks to its three pillar design (see Figure 1). This is important to its application to CSR in the extractives industry, due to the broad range of stakeholders which should be taking part in development in a multitude of settings and local contexts. Despite this simplicity EJ is robust, based on principles of equitable distribution, recognition and participation which adequately address the majority of negative outcomes of extractive industry activity. Description of these issues using EJ will be demonstrated using the example of the Marlin mine.

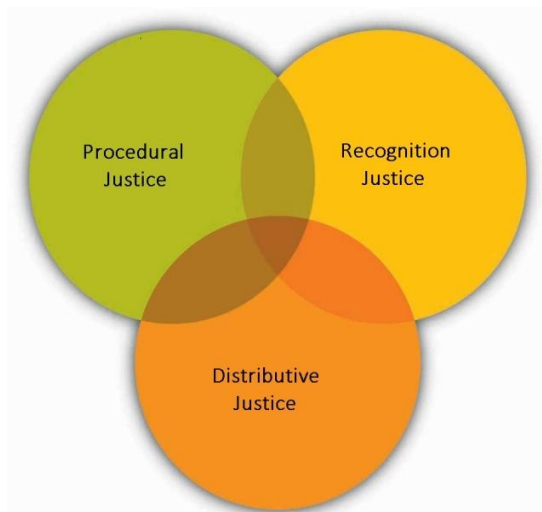


Figure 1. Environmental justice comprises three inter-related pillars. The relationship of each with corporate social responsibility in the case of the Marlin mine will be examined in turn.

Beginning with distributive justice, it is important to note that this pillar of EJ in the case of the Marlin mine has not been entirely neglected. Some community members sold their land to Goldcorp willingly, at prices greater than market rates, while others benefitted from jobs, or increased economic activity from the mine (Goldcorp, 2004a).

Goldcorp has voluntarily contributed to social and environmental projects which redistribute wealth from the mine to the local community. With a \$45

million USD loan from the International Finance Corporation (IFC), Goldcorp founded the Fundación Sierra Madré, to work with community members and organizations to build or improve health clinics, banks, schools, bridges, and water delivery systems (Goldcorp, 2004b). Goldcorp also funded the Asociación de Monitoreo Ambiental Comunitario to monitor Goldcorp's environmental performance, plant trees, and train teachers. The same fund also paid for the construction and improvement of twelve schools and a new urban centre in the village of Nueva Esperanza (Goldcorp, 2009).

These benefits to local communities, however, may not be adequate to amount to equitable distribution of goods and harms. A cost-benefit analysis by the Asociación de Investigación y Estudios Sociales (AIES, 2010) completed from 2005-2009 concluded that 86.1% of profits from the Marlin mine went to Goldcorp, while Guatemalan society on the whole accrued 13.9% of the remaining profits. Environmental, social, and economic costs borne by Guatemalan society and indigenous populations living near the mine drove the ratio of costs to

benefits for these groups to an average of 1.82:1 over the period of study. Rising gold prices in 2008 pushed the cost-benefit ratio to 3.51:1 as extraction activity intensified. It is important to note that many of the sociocultural impacts of the extractives industry are intangible: breakdown of traditional relations, destruction of sacred sites, and disruption of indigenous life are difficult to quantify, but important considerations in calculating costs and benefits (Banerjee, 2000).

According to Whiteman (2009), the economic benefits of development may not be able to offset losses such as voluntary or forced resettlement, pollution, biodiversity loss, social fracture, or desecration of sacred sites. Distribution justice is not only concerned with economic risks and benefits, but also ecological and sociocultural factors. Economic benefits from the mine are expected to dry up once the project is discontinued, however ecological, social, and economic costs will likely remain, the responsibility falling on the Guatemalan government and people.

According to Murphy and Vives (2013), there is currently no compensation fund or legal security to ensure that Goldcorp will cover the costs of future environmental damages.

The Marlin mine also raises unique concerns in the realm of procedural justice.

According to Murphy and Vives (2013), on November 27th, 2003, the Guatemala Ministry of Energy and Mines issued an exploitation license to Montana Exploradora for the development and operation of the Marlin mine. Montana Exploradora purchased rights to subsurface minerals within the Marlin project boundaries from the government of Guatemala. Then, through an intermediary which didn't disclose to sellers why it was buying the land, purchased surface rights directly from landowners, with no government involvement (Goldcorp, 2004a). Procedural justice in the development of a mining project requires the involvement of all interested stakeholders in the decision-making process. Goldcorp (2005) maintains that during 2003 and 2004, it conducted hundreds of meetings and site visits regarding local public consultation and

disclosure activities via its “Community Relations Group”. An IFC (2005a) investigation found that few records of such meetings or exactly what information was shared exist.

Goldcorp published an environmental and social impact assessment (ESIA) in compliance with local law, and advertised its availability for public review for twenty working days, with an additional week given for submission of comments. The company states that it has gone above and beyond minimum legal requirements to address development needs in the community (Murphy and Vives, 2013). A “Public Consultation and Disclosure Plan” (Goldcorp, 2004c) submitted to the IFC in February 2004 as a requirement to receive a \$45 million USD loan to fund the company’s community development projects did not disclose any serious concerns in surrounding communities. According to Murphy and Vives (2013), an accounting of actual events during this time reveals strong tensions between the company and the local Sipacapa community.

Protests were held in February 2004 with the support of local and international NGOs. Residents expressed concerns over the environmental impact of the mine, and over the use of mining as a development tool (IFC, 2005). Despite this discontent, construction commenced in the spring of 2004, after the Guatemalan government had issued the necessary permits and licenses (Goldcorp, 2005). As a result, a referendum was planned in January 2005 by the municipal council of the communities of Sipacapa (Consulta de Buena Fe), allowing adults to vote for or against mining activity (Imai et al., 2007). The result was to be binding and enforceable in the municipality of Sipacapa. This democratic action was supported by article 7, clause 1 of ILO 169 (1991), which states:

The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands

they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

Goldcorp, however, requested an injunction to prevent the referendum, on the grounds that it was undemocratic. Despite this request, the referendum was held as planned, with 99% of voters opposed to mining activity (Imai et al., 2007). The Guatemalan government and Goldcorp acknowledged these results, but development went ahead as planned, based on local laws and regulations not updated after the ratification of ILO 169, which allowed indigenous claims to be overlooked.

The Guatemalan Ministry of Energy and Mines also brought a case against the Sipacapa referendum, in the constitutional court of Guatemala. The court found the referendum to be legal and constituting “an important mechanism of expression for the population” (Imai et al., 2007). The court urged the Guatemalan government to make effective the requirement for consultation under ILO 169 by enacting appropriate laws, and pointed out that the object of consultation is not just to gather community feelings, but the “reach agreements or arrive at a consensus with respect to proposed measures” (Imai et al., 2007). The court ruled, however, that the referendum would not be legally binding, as authority for mining development was placed with the Ministry of Energy and Mines, and so the decision to forbid or allow the Marlin project ultimately fell to this organization.

The IFC, ILO, and IACHR all recognize that neither Guatemala nor Goldcorp complied with ILO 169 in ensuring proper consultation and involvement of local stakeholders in the procedure of development, thus withholding procedural justice. In 2005, the IFC found that “no

formal notifications or records” indicate whether or not the government of Guatemala informed or consulted with local people or their leaders prior to granting the exploration license for the Marlin mine (IFC 2005a). In 2009, the ILO requested that the Guatemalan government suspend mining activities on the ground that the provisions of ILO 169 were not being met (ILO, 2009). In May 2010, the IACHR also requested suspension of mining activities while it investigated allegations of water contamination and non-compliance with ILO 169 (IACHR, 2010). The President of Guatemala, Alvaro Colóm, refused to comply on the grounds that these requests were without foundation (El Periodico, 2010).

The Guatemalan government did not conduct its own consultations with indigenous communities (IFC, 2005a; ILO, 2009; Imai et al., 2007), but left responsibility for consultation with Goldcorp. Based on Goldcorp’s ESIA, the government effectively concluded that adequate consultation had occurred when it issued a license for the mine to open in 2005. Thus, according to both Goldcorp and the Guatemalan government, procedural justice has been done to indigenous populations and other local stakeholders, based on local laws and regulations not updated since the ratification of ILO 169. Local communities and civil society organizations supporting them do not believe that they have been granted proper access to the procedures of development, and demand that ILO 169 be upheld. This difference in opinion has led to considerable social unrest, including public protests and violence.

Along with issues of procedural and distributive justice, the Marlin mine case also raises issues of recognition justice. There is evidence that the values, perceptions, and lived experiences of all interested stakeholders have not been considered by the developer, and that this has led to discontent among local groups. Goldcorp’s “Indigenous People’s Development Plan” emphasizes “respect for the rights, customs, and culture of Area Indigenous Peoples” (Goldcorp,

2004b). Goldcorp has described its consultation process and community development plan such as to indicate that it has provided adequate information, and treated community members with respect for their culture and customs (Murphy and Vives, 2013). According the IFC (2005a), what the company disclosed to locals in terms of potential risks and impacts of the mine is unclear. Making the ESIA available for 20 days likely did little for a population that is largely illiterate and uneducated. It has been suggested that inadequate information on the potential social and environmental consequences of mining was provided (AIES, 2010; IFC, 2005a). The IFC (2005a) states that information provided in the ESIA was too technical, and “didn’t provide adequate information to allow for an informed view of the project”. The IFC (2005a) also states that “potential adverse socioeconomic impacts are not well characterized in the ESIA”, and “The original ESIA is silent on potential cultural impacts relating to the Sipacapa”. These claims indicate that Goldcorp has not adequately recognized the rights of local groups to transparency and complete disclosure, nor have local perspectives or capabilities (e.g. literacy and education) been taken into account.

According to the IFC (2006), lack of consultation as required by ILO 169 has meant that many local community members have suffered from racism and exclusion from Guatemalan society at large. The resulting social tensions between indigenous populations, Goldcorp, and the Guatemalan government furthers feelings of mistrust and mistreatment, leading to social unrest. Many community members experience a lack of respect and propriety, and several people claim to have been subjected to violence and intimidation tactics, including killings (IFC, 2006). Feelings of disrespect also stem from ecological damage, e.g. loss of tree biodiversity in the area (Murphy and Vives, 2013). Local indigenous communities perceive social, ecological, economic,

and spiritual dimensions as interrelated; seeing this important network damaged by Goldcorp, with the consent of their government, understandably inspires feelings of discontent.

Procedural, distributive, and recognition justice issues raised by the Marlin mine project illustrate the risks of undertaking development without a universally accepted philosophical framework. According to Goldcorp and the Guatemalan Ministry of Energy and mines, they have acted appropriately according to local law, Canadian law, and corporate best practice (Murphy and Vives, 2013). According to local stakeholders, including resident indigenous groups, they have been mistreated under ILO 169. Goldcorp (2013) has stated a commitment to “respecting the human rights of our employees and the residents of the communities in which we operate, and contributing to the sustainable development of those communities”. However, the philosophical rift which has developed between corporation, government, and people has led to discontent and social unrest, and turned what might have been a cooperative and mutually beneficial venture into a highly polarized and distrustful relationship.

Results

It is possible that the three central pillars of environmental justice could provide a solid foundation on which to build more sustainable extractive projects, which maximize economic, social, and ecological benefits to all stakeholders in an equitable fashion, while minimizing harms. As demonstrated through analysis of the Goldcorp case, distributive, recognition and procedural justice can describe issues raised by extractive projects well. For any framework to be accepted by all relevant parties, however, it must benefit all of these groups in some way. As mentioned, the corporation is an entity with the primary purpose of maximizing profits. The Guatemalan government wishes to protect the rights and freedoms of all its citizens, but must do

so within a larger economic and political context. Local indigenous groups and civil society organizations have a complicated set of social, economic, and ecological values which they wish to see respected and benefitted by development. In the sections to follow, the incentives for each of these groups to adopt an environmental justice framework in dealing with extractives industry development, and the role that each group might play will be developed, in hopes of providing a common philosophical footing upon which to develop positive and sustainable relationships between these groups.

Role of the Corporation in EJ-Based CSR

An excerpt from Friedman (1970) sets the stage for the discussion of the role of the corporation in CSR based on principles of environmental justice:

“In a free-enterprise, private-property system, the corporate executive... has a responsibility to conduct the business in accordance with their [the business owners’] desires, which generally will be to make as much money as possible while conforming to the basic rules of society, both those embodied in law and embodied in ethical custom.”

Friedman (1970) argues that since the corporation is simply a legal construction, an “artificial person”, it may have “artificial responsibilities” in the form of law and social custom, but cannot be subject to true moral obligations. Others have argued to the contrary (e.g. Mackey, 2005; Mendes, 2007), but in justifying corporate morals tend to rely on the argument that a socially responsibly corporation will be more financially successful, or that societal expectations lead to tangible penalties imposed by stakeholders for perceived CSR lapses.

These arguments are addressed by Friedman (1970), in the second half of the quotation featured above. Though critics may focus on Friedman’s statement that the goal of the

corporation is to make as much money as possible, often overlooked is his acknowledgement that this must be carried out within the bounds of law and ethical custom. The corporation is, of course, bound to adhere by the laws of the country and region in which it is incorporated, lest it face fines or dissolution; but what of the ethical customs?

What Friedman is referring to is the corporation's "social license" of operation (Murphy and Vives, 2013). This refers to the fact that in a globalized, brand-driven society, properly implemented CSR policy can lead to a genuine competitive advantage:

"CSR is an argument of economic self-interest for a business. In today's brand-driven markets, CSR is a means of matching corporate operations with stakeholder values and demands, at a time when these parameters can change rapidly. One example is a company's customers: CSR adds value because it allows companies to better reflect the values of this important constituent base that the company aims to serve". (Handy, 2002).

Each area of operations of a corporation builds on the others to create a composite image perceived by all its stakeholders. Each of these stakeholder groups may contribute value to or penalize the corporation in their own way depending on whether their perception of the organization's CSR is positive or negative. According to the ECRC (2009), wherever possible, consumers want to buy products from companies they trust; suppliers want to form business partnerships with companies they can rely on; employees want to work for companies they respect; and NGOs, increasingly, want to work together with companies seeking feasible solutions and innovations in areas of common concern. Environmental justice provides a simple, easily presented means of communicating CSR activities to stakeholders from a variety of backgrounds. Satisfying each of these stakeholder groups allows companies to maximize their

commitment to investors, who benefit most when the needs of these other stakeholder groups are being met.

Well-documented and robust CSR is becoming increasingly important due to several factors (ECRC, 2009):

- Changing social expectations: Society expects more from companies whose products they buy.
- Increasing affluence: Seen in both the developed and developing world, affluent consumers can afford to pick and choose the products they buy rather than being constrained to a few options by financial barriers.
- Globalization: Growing media influence brings corporate mistakes immediately to the attention of the public. The internet connects like-minded groups and empowers them to spread their message through collective action. Perceived corporate mistakes may lead to boycotts or other harmful actions.

Traditional sociological research suggested that corporations complied with law only for “instrumental reasons” (to avoid economic penalty) (Hawkins and Hutter, 1993), or because “regulations are taken to be a measure of societal expectations, and thus interpreted as a guide to an organization’s moral and social duties” (Wright, 1998). As a result of the changing relationships between stakeholders and the corporation, however, corporations are increasingly expected to take action “beyond compliance” with the law (Porter and Van der Linde, 1995), to meet stakeholder-enforced standards for CSR behaviour and social impacts.

An important concept in the discussion of the social license is “reputation capital.” This is “a communications bridge that predisposes NGOs, communities, and other groups to enter open discussion with a corporation rather than taking a stance of hostile opposition” (Joyce

and Thomson, 1999). Reputation capital carries credibility, such that the upfront costs of gaining social acceptance for a given project are reduced. Those with reputation capital will gain readiest access to the means of future profits: development approvals, preferred access to prospective areas of operation and products, the ear of government, the trust of regulators, the tolerance of local communities, and the least risk of being targeted by ENGOs (Joyce and Thomson, 1999). By demonstrating a commitment to environmental justice, a simple but complete framework for CSR, the corporation may meet or exceed the requirements set out by its social license, increasing its reputation capital, and thus gaining a competitive advantage over other organizations with less stringent CSR policies.



The chief benefits of building reputation capital through proactive and robust CSR, according to Gunningham et al., 2004, are as follows:




- Risk management: any event which might harm your reputation, e.g. a tailings pond leak, worker strike, or consumer boycott, may be considered an unpredictable risk. While these risks cannot be eliminated, they can be minimized through building reputation capital and developing a robust CSR policy.
- Regulatory expedience: reputation capital may lubricate the regulatory process by giving the corporation access to trusting political actors (Sims, 2003).
- The power of proactivity: building a robust and proactive CSR policy before problems arise helps to avoid the need for reactionary policy change in the face of stakeholder demands. Ad hoc policies often cause as many problems as they fix, and may be much more expensive.

With these benefits in mind, the next question to be answered is what steps must be taken by the corporation in order to devise and implement a CSR policy which will allow the business to

take advantage of the competitive edge provided by the building of reputation capital and the social license. The following framework, developed by Industry Canada (2012), provides a basic guide to developing and implementing a corporate CSR policy:

Table 3. CSR Implementation Framework, from Industry Canada (2012)

When? (Conceptual phase)	What? (Task delineation)	How? (Checkpoints on the journey)
Plan 	1. Conduct a CSR assessment	<ul style="list-style-type: none"> • Assemble a CSR leadership team • Develop a working definition of CSR • Review corporate documents, processes and activities • Identify and engage key stakeholders
	2. Develop a CSR strategy	<ul style="list-style-type: none"> • Build support with senior management and employees • Research what others are doing • Prepare a matrix of proposed CSR actions • Develop ideas for proceeding and the business case for them • Decide on direction, approach and focus areas
Do 	3. Develop CSR commitments	<ul style="list-style-type: none"> • Do a scan of CSR commitments • Hold discussions with major stakeholders • Create a working group to develop the commitments • Prepare a preliminary draft • Consult with affected stakeholders
	4. Implement CSR commitments	<ul style="list-style-type: none"> • Develop an integrated CSR decision-making structure • Prepare and implement a CSR business plan

		<ul style="list-style-type: none"> • Set measurable targets and identify performance measures • Engage employees and others to whom CSR commitments apply • Design and conduct CSR training • Establish mechanisms for addressing problematic behaviour • Create internal and external communications plans
Check 	5. Verify and report on progress	<ul style="list-style-type: none"> • Measure and verify performance • Engage stakeholders • Report on performance
Improve 	6. Evaluate and improve	<ul style="list-style-type: none"> • Evaluate performance • Identify opportunities for improvement • Engage stakeholders
	Cross-check: One cycle completed	Return to plan and start the next cycle

In order to develop a CSR policy which adheres to the requirements of an environmental justice framework, several additional strategies should be taken into account. In order for CSR to amount to more than “window dressing”, to gain the trust and support of informed and critical stakeholders, a corporation might address the following issues (modified from Slack, 2012):

1. Carry out an honest assessment of costs and benefits of operation, in order to ensure informed participation of stakeholders in development discussions. Industrial-scale extraction of natural resources generates significant social, economic and environmental impacts (Extractives Industry Review, 2003). Extractives industry companies must operate where the resources are, which may include environmentally or socially sensitive areas. EI operations can also provide benefits to communities through employment,

community development projects, environmental stewardship, etc. Corporations traditionally have a tendency to downplay risks, while exaggerating potential benefits, evident in project EIAs (e.g. Moran, 2004; Kuipers and Maest, 2006). Often a key player in this misrepresentation of development issues is the private consulting firm which completes the project EIA. Such consultants are third-party businesses competing for contracts. Their incentive is to provide a believable but positive EIA, which will allow the proposed project to move ahead and start generating income. As a result, social benefits are often exaggerated, either explicitly by the company (as predicted employment benefits), or implicitly (as communities expect more than can be delivered due to lack of communication on what the project might offer them). The corporation has a short-term incentive to perpetuate such misunderstandings among certain stakeholders; however a just CSR policy demands a more honest assessment of costs and benefits. ESIA's should be prepared by fully independent advisers, with proactive communication of costs and benefits to affected communities. Promises should be kept, and regular public reporting on progress and setbacks should be made available.

2. Project and technology selection must incorporate EJ values. Projects should be selected to avoid resettlement, and operation in conflict zones. Resettlement rarely if ever creates long-term sustainable benefits to communities, which often are worse-off (Dowling, 2002; Szablowski, 2002). This constitutes a failure of the corporation to recognize the values, perspectives, and lived experiences of all stakeholders. Global extractives industry standards state that resettled communities should be better off, or at least as well off as before (IFC, 2006). Operation in conflict areas may either directly or indirectly contribute to violence and human rights abuses, contributing serious harm to long-term

social sustainability (Human Rights Watch, 2005). This constitutes a failure of recognition justice, as well as an unfair distribution of social ills: violence and human rights abuses are elicited only at the production end, while those who benefit most from extractives operations avoid exposure to many of the negative outcomes. At the very least, CSR entails doing no harm. Doing so while operating in conflict zones is nearly impossible. Companies often adhere to a double standard, using destructive technologies like river dumping of mine wastes in the developing world, while adhering to stringent environmental policies in more developed regions. Minimal legal resistance in the developing world leaves EI corporations free to use more cost-effective environmentally destructive technologies, but equitable CSR and distribution justice requires adhering to best practices everywhere, despite potential short-term economic benefits of doing otherwise.

3. Respecting community consent. In order for the corporation to develop a social license with local communities in their area of operations, these communities must accept the presence of the corporation. As described earlier, corporations face a growing threat of organized local resistance, potentially leading to suspension or abandonment of operations. A rhetorical shift is occurring, but there is resistance to a formal legal and policy structure to protect the rights of indigenous peoples to free, prior and informed consent to EI development as established in international law, including the UN declaration on the Rights of Indigenous Peoples, and ILO 169. In order to build sustainable and mutually beneficial relations with local communities, corporations must go beyond compliance and commit to listening to and acting on community opinions.

4. Create greater internal incentives and accountability for CSR performance. In EI companies, managers are traditionally compensated purely based on economic performance. CSR is an add-on to this evaluation structure, and managers carry very little responsibility for CSR failures (Smith and Feldman, 2009). To fully exploit its benefits, CSR should instead be embedded into project design from the start, and robust performance indicators developed for monitoring and management. Knowing the potential long-term economic benefits of CSR as discussed earlier, corporations must argue this case to shareholders and stock analysts, who are inclined to see CSR as a drag on profits, when in fact it is nothing of the sort.
5. Industry peer pressure. Larger companies generally have more resources to devote to CSR. Smaller companies are more likely to commit CSR transgressions for short-term gains. It is in the interest of major companies to refuse to invest in minor companies with poor CSR track records, to prevent damage to their own reputation capital and social license. The Canadian government CSR strategy, “Building the Canadian Advantage” (Coumans, 2010), has begun to address this issue by raising corporate awareness of the business case for such peer pressure.

With these strategies in mind, the forward-thinking corporation has a strong set of incentives to implement a truly integrated CSR policy. In an era of increasing social expectations, rising affluence, and globalization, the corporation must take into account the importance of its social license and reputation capital. These provide tangible benefits such as regulatory expedience, risk management, and efficiency gains from proactivity. By following the framework outlined by Industry Canada (2012), and keeping in mind the five strategies espoused by Slack (2012), the socially responsible corporation stands to benefit society, its stakeholders, and its investors. CSR

may provide the corporation with a competitive edge that will become more and more important as global acceptance of CSR increases.

The Role of Government in CSR

CSR is largely a voluntary practice, carried out at the management level not in terms of “moral responsibility” or “integration”, but because companies consider stakeholder claims powerful, legitimate, or urgent enough to warrant action (Clarkson, 1995; Mitchell, 1998). The value of CSR as a purely voluntary activity, however, has recently been extensively questioned (e.g. Gjølborg, 2011; Fox, 2004; Murphy and Vives, 2013; McCorquodale, 2009; Cragg, 2012; Nolan and Taylor, 2009; Seppala, 2009; Wettstein, 2009). Critics question attempts to clearly separate the state’s duty to protect human rights from business’s responsibility to respect human rights. According to Fox (2004), the division between voluntary CSR and legally mandated corporate activity to protect human rights and the environment is a dangerous and limiting dogma, given the context within which business operates. A holistic, development-oriented approach is needed which brings “soft law” voluntary CSR and “hard law” enforceable legislation under one banner.

Acting as a socially responsible corporation involves countless individual decisions at the employee, management, and organizational level. Each of these decisions may be good or bad for the bottom line (Fox, 2004). The business case for particular actions differs according to various factors, including the company’s visibility, location, size, and ownership. If local legislation enforcement and civil society pressure are weak, for reasons such as under-employment, weak trade unions, under-funded or corrupt labour inspectorates, and/or long, complex supply chains, effective demand for social responsibility is low. To put it another way,

the corporation's "social license" in these cases is more relaxed (Gunningham et al, 2004). Often, when such "drivers" of social responsibility are low or absent, as is often seen in the developing world and indeed is observed in the case of the Marlin mine, local enforcement of legislation is weak as well (Fox, 2004). It is in such cases where the role of government legislation becomes most important in regulating and promoting CSR.

The interest of governments in CSR stems from its potential to enhance sustainable and equitable development, increase national competitiveness, and foster foreign development goals such as human development and development assistance (Peters and Rob, 2010), by redistributing private wealth to the public good. Soft-law, non-binding elements of CSR imply relatively low political cost in terms of resistance from special interest groups, and are thus a good complement to existing hard-law regulations when new binding regulations are politically undesirable or infeasible (Moon, 2002). Many governments view purely voluntary CSR with trepidation, as the "voluntary contribution to sustainable development" begins where established legal frameworks end, meaning that corporations are left to define on their own what CSR means, and how it should be implemented and evaluated (Moon, 2002). In order to retain an element of control over the CSR agenda, these governments seek to play a more active role in defining CSR, and fostering the practice using available policy instruments.

To this end, the roles of the public sector in CSR promotion and regulation, according to Fox (2004) and Ward (2004), include mandating, facilitating, partnering, and endorsing, as described in Table 4. No distinction is made between CSR and "corporate accountability", meaning voluntary and government-mandated corporate activities are both considered part of the CSR process.

Table 4. Roles of the public sector in CSR promotion and regulation (From Fox, 2004; and Ward, 2004)

Mandating	Prescribing corporate investment or operational action through enforceable laws, regulations, and penalties.
Facilitating	Setting clear overall policy frameworks and positions to guide business investment in CSR; development of non-binding guidance and labels or codes for application in the marketplace; laws and regulations that facilitate and incentivize business investment in CSR by mandating transparency or disclosure on various issues; tax incentives; investment in awareness raising and research; facilitating processes of stakeholder dialogue.
Partnering	Combining public resources with those of business and other actors to leverage complementary skills and resources to tackle issues within the CSR agenda – whether as participants, convenors or catalysts.
Endorsing	Showing public political support for particular kinds of CSR practice in the marketplace; endorsing specific metrics, indicators, guidelines and standards or award schemes, and “leading by example”, for example through public procurement practices.

To promote and regulate CSR, governments have at their disposal a number of policy instruments, which vary in approach but all seek socially responsible action of corporations which are incorporated under national law, acting both at home and abroad. These instruments are described as informational, economic, legal, partnering, and hybrid (see Table 5):

Table 5. Policy instruments of CSR promotion and regulation. (From Steurer, 2010; and Peters and Rob, 2010)

Informational instruments	Imply no constraints, but make a moral/business case for CSR, and highlight options and possible consequences, e.g. campaigns, training, websites.
Economic Instruments	Based on taxation and financial incentive. Seek

	to influence corporate behaviour by manipulating market forces, e.g. taxes, subsidies, awards.
Legal Instruments	Make use of the state's legislative, executive, and judicial powers to prescribe desired actions and outcomes, e.g. laws, directives, regulations.
Partnering Instruments	Promote networking and co-regulation between different actors interested in working together toward shared objectives.
Hybrid Instruments	Combine or orchestrate two or more of the above instruments, e.g. CSR strategies.

CSR activities may be voluntary on the part of the corporation, or legally mandated by government (Murphy and Vives, 2013). Governments may develop or co-develop binding minimum standards for CSR issues which are applicable to those who apply them voluntarily, or universally binding. Often, CSR policies begin as voluntary measures, and later transform into social or environmental hard-law regulations as public expectations change (Rasche et al., 2008). Hard-law regulations may also provide orientation points for voluntary CSR: “Companies proved more active with regard to voluntary sustainability activities when ambitious policies provided clear points of orientation” (Barth et al., 2007).

A number of fields have been defined in which the public sector might play a role in promoting and regulating robust CSR. These include developing corporate governance schemes rooted in ethics; responsible management and production; awareness-raising and capacity-building; and many more. For a comprehensive list, see Peters and Rob (2010), Steurer (2010), Fox et al. (2002).

Where the business case for purely voluntary CSR fails to incentivize sufficient corporate action, it is the role of government to take action to protect human rights, stepping into mandating, facilitating, partnering, and endorsing roles. By doing so, government may further its

own policy goals such as enhancing sustainable and equitable development, increasing national competitiveness, and fostering foreign development goals such as human development and development assistance. To these ends, the public sector has at its disposal a number of implements, including informational, economic, legal, partnering, and hybrid implements. Each of these may be applied alone or in concert with others in one of the many fields which government stands to influence. Successful application of these implements should direct CSR towards integration in all corporate activities, both domestic and international, by providing proper incentives when purely financial arguments fail.

Role of Civil Society in CSR

In addition to the private and public sectors, various civil society organizations (CSOs) including NGOs, consumer organizations, and others stand to influence the design, implementation, and management of CSR initiatives. CSOs are unelected groups which may claim to represent the interests of typically under-recognized stakeholder groups, such as local indigenous communities and ecological systems. In the case of the Marlin mine, many CSOs including Amnesty International, Christian Aid, and the Copenhagen Initiative for Central America and Mexico have advocated for the protection of human rights and environmental systems.

Devaux et al. (2013) propose that many CSOs are currently engaged in CSR-type work, but do not acknowledge it as such. According to Devaux et al., (2013) it is important that CSOs become more explicitly involved in CSR in the near future, both to support their own interests, and because of the substantial positive impact they stand to make on the field. Of the reasons for CSOs to involve themselves in CSR, four chief points will be raised here:

- 1) CSR requires a dramatic change in thinking and corporate attitudes in dealing with host communities and their environments in a constructive manner. Such dealings need to be considered not a “nice to do”, but a “must do”, essential to ethical and sustainable business. CSOs are well placed to promote change, by virtue of the types of work that they do.
- 2) CSOs may bring added value and answers and supports to problems of CSR, alternative to those provided by traditional actors in the public and private sectors. These opinions have the potential to balance polarized opinions on CSR, for example that it should only be carried out when economically beneficial, or alternatively that it should be enforced even when it precludes the very survival of a business (Hamann and Acutt, 2010).
- 3) CSOs stand to develop networks by working with established businesses, that might improve their visibility and credibility in the wider community.
- 4) Partnering with business allows CSOs access to greater resources, and consolidating their financial base could improve the quality of services they are able to provide.

For these reasons, CSOs have an interest in developing and making explicit their contributions to CSR in the extractives industry. Focus will now turn to the potential roles civil society may play in the design, implementation, and management of CSR initiatives. These roles each fall somewhere along a spectrum of protest to collaboration. Depending on the circumstances, CSOs may stand to benefit from working in partnership with or even subordinate to government or the private sector, however the opposite is often the case as well, requiring CSOs to take direct action against these actors. Relationships between CSOs, the public sector

and the private sector are thus context-specific, but CSO roles can generally be described as falling into one of three categories: critical co-operation, agenda-setting, and watchdog/contrarian.

Critical co-operation roles are based on the assumption that strategic partnerships between private, public, and civil society sectors may serve to benefit all parties more than alternative individual approaches (Acutt et al., 2001; Bendell, 2000; Hamann, 2002). Business has access to important resources and capabilities that may be harnessed for development purposes (Hamann and Acutt, 2010). Infrastructure provided by a new mine, for example, might also serve to provide electricity and water to local communities. Implementation of these resources and capabilities may be focussed by CSOs and government. The logistical and engineering capacities of the mining corporation, as well as its human and financial resources, may be complemented by the local knowledge and social capital of CSOs, as well as the broader development framework of government (Hamann and Acutt, 2010).

Potential roles of CSOs within critical partnerships include advocating for underrepresented stakeholders such as local communities and the environment; delivery of services, e.g. medical care brought in along new mining roads; implementing policy, e.g. assisting local builders in bringing residences up to new building codes; and certification and assessment. As discussed, the risks of leaving certification and assessment activities to staff of the mining corporation or contracted experts stems from the conflict of interest caused by competition to provide inexpensive, positive assessments. The involvement of expert CSOs in certification and assessment may provide an unbiased element of “social supervision” (Faracik, 2008) of CSR activities, in the interest of transparency and developing social capital. Examples of certification protocols developed by CSOs in partnership with government and business

include the ISO 14000-series, which pertain to corporate environmental management; and the Forestry Stewardship Council, which sets standards for ecological and social protection in the timber supply chain (Institute of Medicine, 2012). It should be noted that such certification schemes tend to work best in conjunction with an existing set of regulatory obligations, so CSO collaboration with government as well as the private sector is important in developing industry standards (Institute of Medicine, 2012).

Critical partnerships require certain circumstances in order to remain mutually beneficial, which all parties must carefully consider and monitor. According to Business Partners for Development (BPD) (2002), common practical challenges to partnerships are inadequate understanding of what parties can offer, unwillingness to compromise, ineffective attempts to institutionalize the partnership within existing operations, and insufficient orientation of newcomers to the partnership.

Most importantly, however, it is essential that partnerships between CSOs and other organizations not preclude the ability of the CSO to criticize corporate action- that corporations not be allowed to “co-opt” or dilute CSO pressure through binding partnerships (Utting, 2000). Hamann and Acutt (2010) suggest that a relationship founded on “interest-based negotiation” might be an ideal means of interaction between organizations with both mutual and contradictory interests. Interest-based negotiation is an alternative to traditional “positional bargaining”, which is based on power relations and conflict between two parties, whereby each party decides on a position and defends it, aiming to slowly chip away at its opponent’s position. Interest-based negotiation allows for simultaneous co-operation and conflict between CSOs and corporations, as each group makes explicit their interests in a given scenario, and parties work to maximize mutual benefits, while compromising on conflicting interests. This type of negotiation is based

on the assumption that regardless of the power relations between two negotiating parties, both groups recognize the ability of the other to impose significant costs or provide valuable benefits (Covey and Brown, 2001). Both groups thus have an incentive to seek mutually beneficial outcomes to negotiation.

Such negotiation is an important means of addressing “accommodation” by the private sector (Hamann and Acutt, 2010): actions taken by business which amount to superficial or image-related changes to give the impression that it is accommodating social interests. This includes corporate codes of conduct, which are often purely PR devices and not “active documents” affecting business outcomes (Slack, 2012). Accommodation may be addressed by CSOs in a critical partnership with business by insisting on tangible standards and targets of social and environmental performance, with joint industry, CSO, and government monitoring (Hamann and Acutt, 2010).

The second category of CSO roles in CSR is agenda-setting. According to Boele et al. (2001), CSOs play an important role in challenging existing relations and structures of power by influencing the construction and use of rights discourses. These groups may seek to legitimate alternative values, norms, and lifestyles, and validate the perspectives and identities of those oppressed by existing power structures. In doing so, though not necessarily directly dictating the terms of CSR activities, CSOs may act to shape the environment within which these terms are created, and the perceived rights and responsibilities of the corporation and other groups. Examples of agenda-setting activities carried out by CSOs include awareness-raising and lobbying.

Awareness-raising activities may target both corporations and consumers. According to Faracik (2008), promotion of conscious, ethical consumption patterns and sustainable models of

living among the general public will help to minimize the harm and maximize the benefits of individual actors on the environment and society. Increased consumer consciousness will also increase pressure on corporations to account for human rights and other ethical concerns in their business model. Awareness-raising activities range from public advertising campaigns covering issues such as product labelling, discrimination, waste reduction, or energy-efficiency, to more sophisticated approaches to more complex issues, such as organizing events and training, releasing publications, etc. (Faracik, 2008). By increasing consumer consciousness of unsustainable business practice and personal habits, CSOs may help introduce issues of environmental justice to the masses, shifting cultural perceptions of CSR rights and responsibilities.

Awareness-raising among corporations entails promotion of available guidelines for operation, including the OECD Guidelines for Multinational Enterprises; certification standards such as ISO 14000, SA 8000, and the Forestry Stewardship Council; multi-stakeholder involvement mechanisms; and reporting initiatives such as the Global Reporting Initiative's G3 guidelines on sustainability reporting (Faracik, 2008). Awards and ranking systems are another means of support and promotion of CSR best practice by CSOs, providing extractives industry actors with financial and social incentive to improve relative to their peers.

Lobbying government is another important role played by CSOs with the aim of creating agenda-setting impacts on CSR and environmental justice discourse. Lobbying, or seeking to influence the opinion of lawmakers or other public officials through personal contact, information seminars, or other means is an important aspect of government in Canada. Successful lobbyists enjoy privileged access to and influence over entities of the state (Newell and Paterson, 1998). Multinational corporations have long understood this, and used their

extensive financial resources to gain a sympathetic ear in government. As a result, CSOs, which may represent alternative CSR values to those espoused by private sector actors, currently control a relatively small fraction of funds devoted to lobbying in the developed world. In the United States, for example, between 1989 and 1999, a single fossil fuel lobby and awareness-raising group called the Global Climate Coalition devoted \$63 million USD to promoting climate change skepticism among government officials, anti-Kyoto protocol lobbying, and influencing American electoral decisions; these funds were donated by such private-sector actors as Dupont, Ford, Texaco, and others (Newell and Paterson, 1998). During the same period, total lobbying by all environmental groups in the U.S. (on all issues combined) amounted to \$4.7 million (Sandberg and Sandberg, 2010).

Clearly, CSO lobby groups have some catching up to do. The importance of the disparity of lobbyist contributions between the private and civil society sectors, as well as the importance of awareness-raising activities, is closely tied to the concept of legitimisation. As related to CSR, this is the influence of a given party on what questions regarding corporate behaviour are asked, what answers are considered feasible, and which actors are invited to the discussion (Hamann and Acutt, 2010). The present CSR discourse, for example, implicitly legitimises the capitalist economic system and the existence of multinational corporations, by taking for granted their present and future importance to CSR. According to Parker (1994), private, public, and civil society actors are considered part of an “actor network”, which changes as problems arise and solutions are considered at the individual, organizational, and network levels. Legitimation is an attempt by industry actors to influence this network to their benefit, changing the way issues of CSR are perceived and thus influencing the environment in which CSR decisions are made. Awareness-raising and lobbying are the primary means available to CSOs in countering this

cultural influence. By moving to match corporate contributions to lobbying and awareness-raising activities, CSOs may seize the initiative to play an active role in developing the CSR agenda, thus promoting the contribution of a broader range of perspectives to the CSR discourse.

The third group of roles of CSOs in CSR can be described as monitoring and contrarian roles. These include monitoring and “watchdog” roles and direct action such as civil disobedience and consumer boycotts. CSOs involved in watchdog capacities may serve to monitor corporate compliance with accepted business practices, human rights standards, and codes of conduct, publicizing any failures (Faracik, 2008). Mining Watch Canada (www.miningwatch.ca) is an example of such an organization, acting to ensure the accountability of Canadian mining corporations operating overseas, where weak local regulations may not be sufficient to protect workers, the environment, and human rights. Mining Watch also fulfills lobbying roles in Canada, acting to influence environmental planning and reform mining laws and policies.

Watchdog CSOs may also act to supplement existing government monitoring, pressuring government legal action in the case of deviations of corporate conduct under existing laws (Faracik, 2008). The threat of negative publicity and legal action may help to control both corporate and government activity. The government of Guatemala for example, has ratified ILO 169, a legally binding human rights convention concerning the rights of indigenous and tribal peoples in independent countries (Murphy and Vives, 2013). Despite this, numerous violations of the convention have reportedly been carried out by Montana Exploradora, Goldcorp, and the Guatemalan government surrounding the construction and operation of the Marlin mine (e.g. ILO, 2009; IACHR, 2010; IFC, 2005a; Imai et al., 2007). Since 2005, Mining Watch has been publicizing legal and ethical developments, and pressuring the Guatemalan government to

honour ILO 169 and enforce penalties on Montana Exploradora, Goldcorp, and the Guatemalan Ministry of Energy and Mines for their contributions to the Marlin project.

Contrarian activities such as consumer boycotts are a form of public demonstration often organized by CSOs in an effort to pressure corporations to adopt certain practices. Extractive industry corporations exist to generate products which are purchased by consumers (Hertz, 2002). They depend on revenue from consumers to continue operations, and are thus extremely vulnerable to interruptions to this revenue stream. The effects of consumer boycotts are twofold, in that they directly impact the profitability of the corporation, but also exert a negative influence on public perception of the corporation, by helping to publicize the behaviour which led to the boycott in the first place.

Civil disobedience as organized by CSOs is the most contrarian option available to these groups in attempting to influence CSR outcomes. Either peacefully or through violent means, protestors may publicize through their actions the perspectives or opinions they wish to be brought into the public consciousness. In Guatemala, civil disobedience activities have ranged from peaceful sit-ins and rallies to violent attacks on mine workers and kidnapping of high-ranking technicians (Dougherty, 2011). Violent activities are generally associated with ad-hoc groups of angry community members, but as hopes for peaceful solutions wane, highly publicized acts of violence become an increasingly attractive option.

Cumulatively, CSOs wishing to influence the implementation of CSR in the extractives industry have three broad categories of action available to them: critical partnerships, agenda-setting, and monitoring/contrarian activities. CSOs stand to make important contributions to the evolution of CSR implementation in the near future as a result of their power to elicit changes in patterns of thinking and perception, potential to add value to CSR discussion by illuminating

important alternative perspectives; potential to develop their own networks with business and government, extending their own credibility and visibility; and access to greater resources and provision of better services through strategic partnerships with the public and private sectors (Devaux, 2013; Hamann and Acutt, 2010).

Conclusion

It is worth repeating that although much has been written of late on the topic of CSR, it remains a nascent field, with no universal definition or agreement on what it should or should not include within its boundaries (Googins et al., 2007). Any working definition should include the duty of the corporation to acknowledge the effects of all its activities on the society and the environment, and attempt to minimize harm and maximize social, economic, and ecological benefits to all stakeholders. As demonstrated by the Marlin mine case, regardless of the finer details of the adopted definition of CSR, it is extremely important that all stakeholders agree on a common philosophical framework for discussion. To move forward with development before this is accomplished risks discontent and perceptions of injustice among stakeholders with unequal or contradictory expectations.

Environmental justice provides a robust framework for discussion of issues of CSR surrounding the Canadian extractives industry. The three pillars of distribution, recognition, and procedural justice have been demonstrated to describe well the chief complaints of local communities in the Guatemalan highlands, and these principals are likely well-suited to application across the extractives industry. EJ is simple, easily interpreted, and broadly applicable, which is important as any framework for discussion of CSR must be easily understood and accepted by a broad range of stakeholders from different backgrounds and levels

of education. For these reasons, it is proposed that in developing, implementing, and enforcing CSR, the public, private, and civil society sectors look to the three pillars of environmental justice for inspiration.

The practicality of implementing EJ-based CSR persists despite traditional arguments against CSR based on the writings of Friedman (1970) and his supporters. Despite the injustice of the corporate executive simply diverting shareholder dividends to the “greater good”, corporations may be considered subject to certain “artificial responsibilities” imposed by society and government. Within this context, the corporation also stands to benefit from a robust CSR policy.

Indeed, the private, public, and civil society sectors all stand to benefit from a robust and universally accepted framework for CSR. The corporation stands to develop its social license, adding shareholder value in a brand-driven, globalized society of conscious consumers. Benefits to reputation capital also lend reduced upfront costs of gaining social acceptance, ready access to the means of future profits including the ear of government, management of risks, regulatory expedience, and cost savings through proactivity.

Governments may see benefits in the form of enhanced sustainable development, increased national competitiveness, and fostering of foreign development goals through redistribution of private wealth to public good. Soft-law CSR recommendations provide a suitable complement to existing regulations with low political cost, while hard-law regulations allow government to step in and address ethical lapses when the business case for CSR is not strong enough.

CSOs are well-suited to promoting change to existing conceptions of CSR given their roles in society as communicators and advocates. CSOs may bring valuable alternative opinions

to CSR discussion, while benefitting personally from networking, increased visibility, and access to greater resources through partnerships with business and government.

Implementing CSR based on principles of EJ requires each sector to fulfill certain roles. The corporation must develop and implement a CSR policy according to an accepted framework, e.g. that published by Industry Canada (2012). This policy must have in place mechanisms for feedback and adaptive management. Key issues to be addressed by a corporation in the interest of EJ-based CSR include an honest assessment of operational costs and benefits to all stakeholders, project and technology selection incorporating EJ values, respecting community consent, creating internal incentives and accountability for CSR performance, and applying industry peer pressure.

Government roles in CSR include mandating, facilitating, partnering, and endorsing. Policy instruments for fulfilling these roles include informational, economic, legal, partnering, and hybrid instruments. Government may mandate CSR activities through hard-law regulations, or develop voluntary soft-law guidelines to be followed by willing corporations. These regulations may be developed by government alone or in partnership with business or civil society. It is important that voluntary mechanisms and corporate accountability under regulations not be held distinct, but work in concert towards common CSR targets.

CSOs fulfill the roles of critical co-operation, agenda-setting, and watchdog/contrarian. These roles lie on a spectrum between contrarianism and collaboration, working with or against government and business as the situation warrants. Critical co-operation roles include advocating for underrepresented stakeholders, delivery of services, implementing state policy, and certification/assessment. Agenda-setting roles include lobbying and awareness-raising. Monitoring and contrarian roles include watchdog activities and direct action.

If public, private, and civil society actors can agree on a single framework for developing, implementing, and monitoring CSR, these activities stand a much better chance of success, with mutually reinforcing benefits to all parties. Environmental justice provides a simple and readily applicable framework, which is easily adopted by a wide range of stakeholders. Environmental justice thus provides a feasible framework upon which to base CSR in the Canadian extractives industry.

Discussion

This paper has attempted to address the application of an environmental justice framework to issues of CSR in the Canadian extractives industry, however several significant points of interest have not been directly discussed in the paper's main body. This section will touch briefly on several of these topics, including alternative frameworks currently in use, the difficulty of enforcing corporate law on an international scale, and the possibility that ignoring the concept of CSR as an "end" of corporate activity, rather than a "means" might be overly cynical.

Although there is currently no consensus on what CSR means and how it should be conceived, implemented, and enforced, there is no lack of organizations developing their own standards and definitions. According to Whellams and Steeghs (2009), CSR frameworks tend to fall along a spectrum from voluntary compliance to strict enforcement. In order from least regulatory to most, the eleven most important frameworks currently in use in the extractives industry according to Whellams and Steeghs (2009) are the United Nations Global Compact, Organization for Economic Co-operation and Development's Guidelines, International Organization for Standardization's ISO 26000, Extractives Industry Transparency Initiative,

Prospectors and Developers Association of Canada's e3Plus, Global Reporting Initiative, Voluntary Principles on Security and Human Rights, AccountAbility 1000 Series Standards, International Council on Mining and Metals, International Finance Commission's Performance Standards on Social and Environmental Sustainability, and Towards Sustainable Mining. Several of these frameworks have been discussed briefly as promoting either a greater or a lesser role for government regulation of CSR. Ultimately, it was decided for the purposes of this paper that a combination of voluntary and mandated CSR activities is needed, with government, business, and civil society each playing a role. Any of the above frameworks would make for helpful additional reading in determining the relative merits of certain aspects of CSR, including voluntary versus mandated activities.

A second important issue which has been somewhat glossed over by this paper is the difficulty of enforcing legal standards on multinational corporations based in Canada, and the inaccessibility of Canadian courts to foreign plaintiffs claiming to have been harmed by Canadian extractives industry activities. Modern corporations often operate within multi-tiered structures, consisting of a dominant parent corporation, subholding companies, and many smaller subsidiaries scattered around the world (Blumberg, 2002). Montana Exploradora is an example of one such subsidiary company, incorporated in Guatemala by Goldcorp (then Glamis) for the express purpose of developing the Marlin mine (Murphy and Vives, 2013). In legal terms, each of the constituent corporations of a group is considered a separate legal entity, distinct from other constituents and its shareholders (Blumberg, 2002). In this way, not only are shareholders of the parent corporation insulated from liability for the corporation's obligations, but the parent corporation is insulated from the obligations of its subsidiaries.

It is possible to establish vicarious liability through a process called “piercing the veil”, allowing cases of alleged harm to foreign parties by subsidiaries of Canadian corporations to be tried in Canadian courts. To do so, the plaintiff must establish that:

- 1) There is such unity of interest and ownership that separate corporate personalities no longer exist, and
- 2) Failure to disregard their separate entities would result in fraud or injustice (Blumberg, 2002).

Often, if the alleged harm is carried out by a foreign subsidiary corporation, a Canadian court will invoke *Forum Non Conveniens*, dismissing the case in favour of a trial in a more suitable location, e.g. in the country of the subsidiary’s incorporation. This poses a problem of justice, as it is exceedingly difficult for a foreign plaintiff to bring a legal case against a Canadian parent corporation, even if said corporation is effectively in control of its foreign subsidiary and benefits directly from the suffering of the plaintiff.

In order to address this perceived shortcoming of the Canadian judicial system, the Canadian Network on Corporate Accountability (CNCA) has recently proposed that the Canadian government appoint an extractives-sector Ombudsman, with the power to “independently investigate complaints and make recommendations to corporations and the Government of Canada”, as well as legislate “access to Canadian courts for people who have been seriously harmed by the international operations of Canadian companies” (CNCA, 2013). It is proposed that this would allow greater accountability of Canadian corporations in the face of complaints of environmental or human rights abuses. Until such time as this solution is implemented, the difficulty of establishing liability of shareholders and parent corporations in

Canada remains, but increasing pressure from government actors and civil society groups such as the CNCA may provoke change in the near future.

Analysis of the Marlin mine case

The Marlin mine provides a good demonstration of a project in which environmental justice has not been served to all parties by CSR practice. Through this example, it has been shown that environmental justice is a convenient framework for discussing failures of CSR. It may have been valuable to this report, however, to also provide more concrete examples of successful CSR programs, to demonstrate the presence or absence of environmental justice thinking implied by or explicitly used in designing and implementing these programs. Further study might seek to describe apparent environmental justice thinking in successful CSR programs, to judge whether the two frameworks are mutually beneficial in practice.

An important inadequacy of the Marlin mine case as representative of the Canadian extractives industry in the developing world is the fact that the project in question is still ongoing. Further study should seek to follow the application of CSR throughout the lifetime of this or other projects, in order to better understand the applicability of the environmental justice framework from conception to reclamation and beyond. Given the often decades-long duration of exploitation licenses granted to such projects, a retrospective study might be better suited to this sort of research than longitudinal study of an ongoing project.

A second important inadequacy of the analysis of the Marlin case is the lack of quantitative comparison of the social, ecological, and economic facets of justice. Environmental justice alone is not well-suited to this sort of quantitative comparison. A framework such as that used by AIES (2010) in developing cost-benefit ratios of the Marlin project might have made a

useful add-on to this report, in determining just how important is loss of social capital, for example, as compared to desecration of sacred sites, or groundwater contamination. Such discrete valuation of elements of environmental justice might aid in the strategic development of CSR programs which devote appropriate resources to certain activities as their relative value and expected outcomes warrant.

Summary of Main Points

- Based on document analysis, CSR in the Canadian extractives industry may stand to benefit from an EJ framework addressing issues of procedural, recognition, and distribution justice in mining developments.
- EJ describes relevant issues of CSR well, as demonstrated by the Marlin mine case study.
- EJ is a robust yet simple framework, easily communicated to stakeholders from different backgrounds and levels of education.
- For the corporation to act towards the common good at the expense of its stakeholders is fundamentally unjust.
- However, the corporation must act in accordance with law and social custom, and as such, is subject to artificial responsibilities to the common good.
- All else being equal, the ethical corporation stands to gain a competitive edge in the global marketplace from social license and reputation capital.
- The corporation should therefore adopt a robust CSR policy. An EJ-based CSR policy requires careful project and technology selection, industry peer pressure, respecting community consent, creating greater internal incentives for CSR practice, and carrying out an honest assessment of project costs and benefits.

- The interest of governments in CSR stems from its potential to enhance sustainable and equitable development, increase national competitiveness, and foster foreign development goals such as human development and development assistance, as well as an interest in setting the CSR agenda in a manner favorable to government.
- Government roles in CSR promotion and regulation include mandating, facilitating, partnering, and endorsing.
- Government tools to this effect include informational, economic, legal, partnering, and hybrid.
- CSOs are well placed to affect change in CSR practice, stand to bring valuable alternative perspectives to CSR discussion, may benefit their own networks and visibility by taking part in discussion with industry, and may improve their ability to deliver services through partnering with business and government.
- CSO roles in CSR range from co-operative to contrarian, including critical partnerships with industry, agenda-setting, and monitoring/protest activities.
- If public, private, and CSO sectors can agree on a single common framework for CSR planning, implementation, and enforcement, then extractives-industry activities stand a much better chance of success with mutually reinforcing benefits for all parties.

References

- Acutt, N., Hamann, R., Carter, A.S. and Kapelus, P. (2001). Towards the measurement of costs and benefits of tri-sector partnerships. Working Paper #6. London: Business Partners for Development Natural Resources Cluster.
- AIES (2010). Estudio Costo Beneficio de la Mina Marlin en San Marcos, Guatemala. Ciudad de Guatemala, Guatemala: Asociaci3n de Investigaci3n y Estudios Sociales.
- Banerjee, S.B. (2000). Whose land is it anyway? National interest, indigenous stakeholders, and colonial discourses: The case of the Jabiluka Uranium mine. *Organization & Environment* 13(1):3–38.
- Bauer, T., and Erdogan, B. (2010). Theories of Motivation. *Organizational Behaviour*, Ch. 5. Washington, DC: Flat World Knowledge.
- Bendell, J. (Ed.) (2000). Terms of endearment: business, NGOs and sustainable development. Sheffield: Greenleaf.
- Blumberg, P.I. (2002). Asserting human rights against multinational corporations under United States law: conceptual and procedural problems. *American Journal of Comparative Law* 50:493.
- Business Partners For Development (2002). Putting partnering to work: tri-sector partnership results and recommendations (1998–2001). London: BPD.
- Canadian Network on Corporate Accountability (2013). Open for Justice [Fact Sheet]. Retrieved from: <http://cnca-rcrce.ca/wp-content/uploads/CNCA-Backgrounder-Open-for-justice-ENG-FINAL1.pdf>.
- Carroll, A.B. (1979). A three-dimensional conceptual model of corporate performance. *Academy of management review* 4(4):497-505.
- Clarkson, M.E. (1995). A stakeholder framework for analyzing and evaluating corporate social performance. *Academy of Management Review* 20(1):92-117.
- Corporation (2013). In *Merriam Webster Dictionary Online*. Retrieved from: <http://www.merriam-webster.com/dictionary/corporation>.
- Coumans, C. (2010). Alternative accountability mechanisms and mining: the problems of effective impunity, human rights and agency. *Canadian Journal of Development Studies* 30(1-2):27-48.
- Covey, J. and Brown, L.D. (2001). Critical cooperation: an alternative form of civil society – business engagement. Report No 17(1). Boston: Institute for Development
- Cragg, W. (2012). Ethics, enlightened self-interest and the corporate responsibility to respect human rights: A critical look at the justificatory foundations of the UN framework. *Business Ethics Quarterly* 22(1):9-39.
- Cropanzano, R., Bowen, D.E., and Gilliland, W.S. (2007). The management of organizational justice. *Academy of Management Perspectives* November:34–48.
- Devaux, I., Benamozig, S., Ouali, Y.L., Huong, N., Viet Anh, D., Kim Hoa, N., Murphy, P., Beierlein, L. (2013). Civil society and corporate social responsibility in Vietnam: Bridging the gap. Hanoi: Association Batik International.

- Dougherty, M.L. (2011). The global gold mining industry, junior firms, and civil society resistance in Guatemala. *Bulletin of Latin American Research* 30(4):403-418.
- Dowling, T. (2002). MMSD Working Paper No.58: Avoiding new poverty: mining-induced displacement and resettlement. International Institute for Environment and Development. Retrieved from: <http://pubs.iied.org/G00549.html?a=T%20Downing>.
- Egyptian Corporate Responsibility Centre (2009). A guide to corporate social responsibility [Fact Sheet]. Retrieved from: http://www.ecrc.org.eg/uploads/documents/articles_a%20guide%20to%20corporate%20social%20responsibility.pdf.
- El Periodico (2010). Gobierno no suspenderá operaciones en mina Marlin. Retrieved from: <http://www.elperiodico.com.gt/es/20100603/pais/155358/>.
- Elkington, J. (1998). Partnerships from cannibals with forks: The triple bottom line of 21st-century business. *Environmental Quality Management* 8(1):37-51.
- Extractive Industries Review (2003). Striking a better balance: the final report of the extractive industries review. Retrieved from: <http://commdev.org/content/document/detail/1955/>.
- Extractive Industries Transparency Initiative (2010). Extractive industries transparency initiative. Retrieved from: <http://www.eitransparency.org>.
- Faracik, B. (2008). The Government and Civil Society Roles in the CSR – Case of Poland. *Corporate Social Responsibility and Sustainable Management*, December.
- Fox, T. (2004). Corporate Social Responsibility and Development: In quest of an agenda. *Development*, 47(3):29-36.
- Fox, T., Ward, H., and Howard, B. (2002). Public sector roles in strengthening corporate social responsibility: a baseline study. Washington, DC: World Bank.
- Friedman, M. (1970, September 13). The Social Responsibility of Business is to Increase its Profits. *New York Times Magazine*.
- Friedman, M., Mackey, J., and Rogers, T.J. (2005). Rethinking the Social Responsibility of Business [Debate Transcript]. Retrieved from: <http://reason.com/archives/2005/10/01/rethinking-the-social-responsi/print>.
- Gjølborg, M. (2011). Explaining regulatory preferences: CSR, soft law, or hard law? Insights from a survey of Nordic pioneers in CSR. *Business and Politics* 13(2).
- Goldcorp (2004a). Marlin mining project land acquisition procedures. Report submitted to the International Finance Corporation by Montana Exploradora de Guatemala, S.A.
- Goldcorp (2004b). Marlin mining project indigenous peoples development plan. Report submitted to the International Finance Corporation by Montana Exploradora de Guatemala, S.A.
- Goldcorp (2004c). Marlin mining project public consultation and disclosure plan. Report submitted to the International Finance Corporation by Montana Exploradora de Guatemala, S.A.
- Goldcorp (2005). Environmental and social performance annual monitoring report (2004) executive summary. Report submitted to the International Finance Corporation by

- Montana Exploradora de Guatemala, S.A.
- Goldcorp (2006). Goldcorp completes acquisition of Glamis [Fact Sheet]. Retrieved from: <http://goldcorp.com/English/Investor-Resources/News/News-Details/2006/Goldcorp-CompletesAcquisitionofGlamis/default.aspx>.
- Goldcorp (2009). Environmental and social performance annual monitoring report (2008). Prepared by Montana Exploradora de Guatemala, S.A.
- Goldcorp (2013). Corporate Social Responsibility Policy [Fact Sheet]. Retrieved from: <http://www.goldcorp.com/files/CSR%20Policy%20Statement.pdf>.
- Goldcorp (2014). About Us [Fact Sheet]. Retrieved from: <http://goldcorp.com/English/About-Us/default.aspx>.
- Gunningham, N., Kagan, R.A., and Thornton, D. (2004). Social license and environmental protection: why businesses go beyond compliance. *Law & Social Inquiry* 29(2):307-341.
- Hamann, R. (2002). Tri-sector partnerships for managing social issues in extractive industries. Kelian Equatorial Mining, Indonesia—a partnership approach to mine closure: a case study, June 2002. London: Business Partners for Development Natural Resources Cluster.
- Hamann, R., and Acutt, N. (2003). How should civil society (and the government) respond to 'corporate social responsibility'? A critique of business motivations and the potential for partnerships. *Development Southern Africa*, 20(2):255-270.
- Handy, C. (2002). What's a Business For? *Harvard Business Review* 80(12):45-59
- Haufler, V. (2010). Disclosure as governance: the extractive industries transparency initiative and resource management in the developing world. *Global Environmental Politics* 10(3):53.
- Hertz, N. (2002). The silent takeover: Global capitalism and the death of democracy. Chicago: Random House.
- Herz, S., Sohn, J., and La Vina, A. (2007). Development Without Conflict: The Business Case for Community Consent. Washington, DC: World Resources Institute.
- Hilson, G., Maconachie, R. (2009). Good governance and the extractive industries in Sub-Saharan Africa. *Mineral Processing and Extractive Metallurgy Review* 30 (1):52-100.
- Human Rights Watch (2005). The Curse of Gold: Democratic Republic of Congo. Washington, DC: Human Rights Watch.
- Imai, S., Mehranvar, L., and Sander, J. (2007). Breaching indigenous law: Canadian mining in Guatemala. *Indigenous Law Journal* 6:101–129.
- Industry Canada (2012). Implementing Corporate Social Responsibility [Fact Sheet]. Retrieved from: <http://www.ic.gc.ca/eic/site/csr-rse.nsf/eng/rs00130.html>.
- Institute of Medicine (US) Roundtable on Environmental Health Sciences, Research, and Medicine (2007). Global Environmental Health in the 21st Century: From Governmental Regulation to Corporate Social Responsibility: Workshop Summary. Washington (DC): National Academies Press

- Inter-American Commission on Human Rights (2010). PM 260-07 - Communities of the Maya People (Sipakepense and Mam) of the Sipacapa and San Miguel Ixtahuacán Municipalities in the Department of San Marcos, Guatemala, 2010 (August 15). Retrieved from: www.business-humanrights.org/Links/Repository/1014672/jump.
- International Finance Corporation (2005). Compliance Advisor/Ombudsman: Assessment of a complaint submitted to CAO in relation to the Marlin Mining Project in Guatemala. Retrieved from: <http://www.cao-ombudsman.org/cases/document-links/documents/CAO-Marlin-assessment-English-7Sep05.pdf>.
- International Finance Corporation (2006a). Compliance Advisor/Ombudsman: CAO follow-up assessment, Guatemala. Complaint regarding the Marlin Mining Project. Retrieved from: http://www.cao-ombudsman.org/cases/document-links/documents/CAOFOLLOWUPASSESSMENTGUATEMALAComplaintRegardingMarlinMiningProject_May2006.pdf.
- International Finance Corporation (2006b). Performance Standard 5: Land Acquisition and Involuntary Resettlement. Retrieved from: [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS5/\\$FILE/PS_5_LandAcqInvolResettlement.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS5/$FILE/PS_5_LandAcqInvolResettlement.pdf).
- International Labour Organization (Entry into Force: 05 September 1991). C169 - Indigenous and Tribal Peoples Convention, 1989: Convention concerning Indigenous and Tribal Peoples in Independent Countries. ILO 169.
- International Labour Organization (2009). Report of the committee of experts on the application of conventions and recommendations. International Labour Conference, 98th Session, 2009 (p. 679). Geneva: International Labor Organization.
- Joyce, S., and Thomson, I. (1999). Earning a Social License to operate: social acceptability and resource development in Latin America. *The Mining Journal* 11.
- Kuipers, J., and Maest, A. (2006). Comparison of predicted and actual water quality at hardrock mines: The reliability of predictions in environmental impact statement. Kuipers and Associates and Buka Environmental. Retrieved from: <http://www.earthworksaction.org/pubs/ComparisonsReportFinal.pdf>.
- Lertzman, D., and Vredenburg, H. (2005). Indigenous peoples, resource extraction and sustainable development: An ethical approach. *Journal of Business Ethics* 56(3):239–254.
- Mackey, J. (2005). Profit is the means, not end. *Reason* October.
- Mccorquodale, R. (2009). Corporate social responsibility and international human rights law. *Journal of Business Ethics* 87:385-400.
- Mirvis, P.H. (2012). Corporate Social Responsibility. *Encyclopedia of Human Resource Management, Key Topics and Issues* 1:153-159.
- Mirvis, P.H., and Googins, B. (2006). Stages of corporate citizenship: A developmental framework. *California Management Review* 48(2):104-126.
- Mitchell, R.K. (1998). Toward a theory of stakeholder identification and salience: Defining the

- principle of who and what really counts. In M.E. Clarkson (Ed.), *The corporation and its stakeholders: Classic and contemporary readings* (pp. 275–303). Toronto: University of Toronto Press.
- Moran, R. (2004). A tarnished legacy: a social and environmental analysis of Mali's syama gold mine. Oxfam America. Retrieved from: <http://www.oxfamamerica.org/publications/tarnished-legacy-a-social-and-environmental-analysis-of-malis-syama-goldmine>.
- Murphy, M., and Vives, J. (2013). Perceptions of Justice and the Human Rights Protect, Respect, and Remedy Framework. *Journal of business ethics* 116(4):781-797.
- Newell, P., and Paterson, M. (1998). A climate for business: global warming, the state and capital. *Review of International Political Economy* 5(4):679-703.
- Nolan, J., and Taylor, L. (2009). Corporate responsibility for economic, social and cultural rights: rights in search of a remedy? *Journal of Business Ethics* 87:433-451.
- Peters, A., Rob, D. (2010). The role of governments in promoting corporate responsibility and private sector engagement in development. New York, United Nations Global Compact.
- Sandberg, L.A., and Sandberg, T. (Eds.). (2010). *Climate Change: Who's Carrying the Burden?: the Chilly Climates of the Global Environment Dilemma* (Vol. 3). Canadian Centre for Policy Alternatives.
- Sawyer, S., and Gomez, E.T. (2008). Transnational governmentality and resource extraction. Indigenous peoples, multinational corporations, multilateral institutions and the state, identities, conflict and cohesion programme papers (UNRISD).
- Scherer, A., and Palazzo, G. (2007). Toward a political conception of corporate responsibility: Business and society seen from a Habermasian perspective. *Academy of Management Review* 32(4):1096-1120.
- Schlosberg, D. (2004). Reconceiving environmental justice: global movements and political theories. *Environmental politics* 13(3):517-540.
- Seppala, N. (2009). Business and the international human rights regime: A comparison of UN initiatives. *Journal of Business Ethics* 87:401-417.
- Seton, K. (1999). Fourth World Nations in the era of globalisation: An introduction to contemporary theorizing posed by indigenous nations. *Fourth World Journal* 4(1).
- Slack, K. (2012). Mission impossible?: Adopting a CSR-based business model for extractive industries in developing countries. *Resources Policy* 37(2):179-184.
- Smith, D.G. (2007). Piercing the corporate veil in regulated industries. Selected works unpublished papers. Retrieved from: http://works.bepress.com/douglas_smith/1/.
- Smith, G., and Feldman, D. (2009). Community relationships review: global summary report. Newmount Mining Corporation. Retrieved from: <http://www.beyondthemine.com/2009/pdf/CRRGlobalSummaryFULL-EnglishFINAL.pdf>.
- Steurer, R. (2010). The role of governments in corporate social responsibility: characterising public policies on CSR in Europe. *Policy Sciences* 43(1):49-72.

- Szablowski, D. (2002). Mining, displacement and the World Bank: a case analysis of compania minera antamina's operations in Peru. *Journal of Business Ethics* 39 (3):247–273.
- Utting, P. (2000). Business responsibility for sustainable development. Occasional Paper #2. Geneva: United Nations Research Institute for Social Development.
- Voluntary Principles on Security and Human Rights (2010). The Voluntary Principles on Security and Human Rights. Retrieved from: /<http://www.voluntaryprinciples.org>
- Walker, G., and Day, R. (2012). Fuel poverty as injustice: integrating distribution, recognition and procedure in the struggle for affordable warmth. *Energy Policy* 49:69-75.
- Ward H. (2004) Public Sector Roles in Strengthening Corporate Social Responsibility: Taking stock. Washington, D.C.: World Bank Group.
- Wettstein, F. (2009). Multinational corporations and global justice. Human rights obligations of a quasi-governmental institution. Stanford, CA: Stanford University Press.
- Whiteman, G. (2009). All my relations: Understanding perceptions of justice and conflict between companies and indigenous peoples. *Organization Studies* 30:101–120.
- World Council of Indigenous Peoples. (1979). Alternatives to development: environmental values of indigenous peoples. Northwest Regional Conference on the Emerging International Economic Order, Seattle, WA, 30 March; Center for World Indigenous Studies Fourth World Documentation Project Archive. Retrieved from: <http://cwis.org/fwdp/International/indigeco.txt>.