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How can public–private partnerships contribute to security and human rights policy and practice in the extractive industries? A case study of The Democratic Republic of Congo (DRC)

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ABSTRACT

Across sub-Saharan Africa, the presence of foreign large-scale mining companies is increasing. This is in part a result of depleting resources in countries such as Canada, United States and Australia, and in part from a more favorable national mine investment climate in several mineral-rich African countries. Their increased presence raises important questions around the potential role and function of Corporate Social Responsibility (CSR) in the sector. In post-conflict and/or fragile states, CSR has further implications for conflict and risk mitigation strategies to ensure the protection of human rights. One CSR approach increasingly being considered is the public–private partnership, whereby companies, public donors, and development agencies leverage their relationships for mutual benefit. There is merit in exploring its function in post-conflict fragile states, where socio-economic needs are high and the capacity of the state to respond to a variety of mine governance challenges is limited. Two case studies from the Democratic Republic of Congo (DRC) are presented, and their policy implications, discussed.

Introduction

Following the 2002 peace agreement in The Democratic Republic of Congo (DRC), the large-scale mining sector has resurged, bolstered by foreign investment. Mining operations, however, operate in a highly post-conflict fragile context, where population needs are considerable and development efforts limited. Such a policy environment necessitates the mitigation of a variety of conflicts and risks as mining benefit is introduced into communities amidst high social expectations, continued unemployment, and thriving informal economic sectors. Two case studies from The DRC provide insight into how the private–public partnership (PPP) model has enabled multi-actor partnerships to address fundamental development concerns related to conflict whilst equally influencing policy formation around conflict and risk mitigation. This article presents these two PPP examples, arguing that whilst considerable work has been done at the policy level to develop standards and guidelines for conflict and risk mitigation in the extractive industry, their implementation at the local level could benefit from greater public–private collaboration. A PPP approach, which entails public and private organizations working together to address commonly defined conflicts and risks in the social environment, can not only mitigate risks for companies but ultimately, can also lead to the development of more coherent social and economic strategies for populations, governments and the development community. Such a collaborative approach intensifies potential impact on overall development agendas by leveraging expertise and relationships.

The PPPs detailed in this article are distinct in nature. The first is largely a 'development-oriented' model with specific indicators and objectives. The second, however, is largely a 'research-oriented' model with a forward planning purpose. The article highlights the potential value of these differing models in preventing and mitigating several conflict and risk dynamics in the mining environments of The DRC. The first model spanned two provinces of The DRC – Katanga and Orientale – whilst the second focused solely on Kolwezi, a town in Southern Katanga. In each case, due to partners' positions and relationships with wider networks and influencing actors, analysis of implementation

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contributed to a variety of policy debates intrinsically linked to conflict and risk mitigation at the national and international levels. Three will be explored: (1) policy coherence on development; (2) artisanal mining; and (3) security and human rights.

The article is divided into two sections. The first provides an overview of PPPs in global CSR practice. It positions conflict and risk mitigation within these CSR approaches, and argues that whilst tremendous work has occurred at the policy level, more local application of international standards and policy guidelines is needed. The second section explores two PPP experiences in The DRC. It demonstrates usefulness of combining local level implementation of conflict and risk strategies with policy engagement to enhance understanding of, and responses to, key conflict drivers. It frames these PPPs and their subsequent responses in the context of the mine agenda and the national development agenda, in the process, demonstrating their intrinsic relationship to overall socio-economic recovery. In this second section, the article also makes observations for policy consideration.

Corporate Social Responsibility: regulation, voluntary, or 'third way' in Africa?

Given the diverse contexts in which business interacts with society, it is not surprising that the concept of CSR and its standards are still not universally defined. The role for CSR in the extractive industries continues to be debated, in particular whether ensuring the protection of human rights is best achieved through third-party regulation or through company self-regulation.

The call for improved regulation arose largely in response to poor company behavior in developing countries. Governments, lending institutions, and international institutions came increasingly under pressure by civil society organizations to pressure the extractive industries to address social and environmental issues more comprehensively (see Canada as one striking example).[1] But in order to do so: (1) governments[2] must have the capacity to perform monitoring roles and (2) they must possess the political will to perform such functions. In practice, maintaining effective regulation is challenging in the sector because it is constantly evolving: on the one hand, its operations have become more globalized and on the other hand, more decentralized in its decision-making. The mining industry has expanded operations away from their 'home' countries such as Australia, Canada, the United States, and South Africa, and towards Africa, Asia and Latin/South America while still maintaining, for the most part, their headquarters at 'home'. However, industry decision-making that influences social responsibility issues has become more decentralized towards the mine-site level. A company may have corporate policies on social responsibility; yet their implementation relies heavily on the will and capacity of project site staff in the given country. A greater spectrum of accountability exists and is further challenged when mining companies are listed on a particular stock exchange, whereas its headquarters (and thus cultural make-up and governance structures) may in fact be located elsewhere.[3] With all these spheres of influence and decision-making, improved regulation by governments, while imperative, is challenging.

Corporate self-regulation emerged as an alternative approach to regulation, particularly in contexts where regulatory frameworks are absent and governance capacity is weak. Self-regulation manifests itself most commonly through voluntary codes and guidelines, or project-specific social investments. Two major criticisms of this approach exist, the first being that it fails to promote the implementation of uniform standards for all companies in the sector. Thus, some (companies) may choose to adopt a variety of human and social standards, while others may choose to adopt only some or perhaps none at all. Second, self-regulation has no accompanying enforcement mechanism. A further important observation regarding the limitations of self-regulation relates back to the decentralized nature of mine operations. Corporate policies should be meaningfully integrated into all departments; yet, the decentralized nature of extractive industry operations can produce barriers to effective mainstreaming (Kapelus, 2002).

In recent years, more accommodating perspectives have emerged on how civil society, development agencies and public donors can work more proactively with industry to enhance CSR and achieve common development goals. In a review of the key issues and debates around CSR, Bloomhill (2007) traces the evolution towards more accommodating partnerships – coined the 'third way' – between the private sector and non-governmental organizations. This 'third way' is largely centered on "voluntary approaches, collaboration, and partnerships" (Bloomhill, 2007, p. 29) and equally, makes use of impact assessments and stakeholder consultation methodologies. It has been argued that given the limitations of regulation and self-regulation, a combined approach could fill important gaps when it comes to legislating in the areas of environmental and human rights (Faruque and Hossain, 2006).

Public–private partnerships (PPP) are one expression of the 'third way', and are increasingly used by the extractive industries and in development more broadly to pursue social and community development goals, and/or to establish voluntary regulation and standards (Reed and Reed, 2006). In the first area (social and community development), PPPs are used in response to country-specific or thematic goals whereby public donors and the private sector leverage resources to meet sectoral objectives, such as health, environment, education, agriculture, governance and security. One example is the Global Development Alliance (GDA), designed and managed by the United States Agency for International Development (USAID); several other donor countries have similar models. In the latter area (voluntary regulation and standards), PPPs are generally implemented in response to governance challenges within the extractive industries, whereby companies and development institutions advocate for behavior change. Examples include the Voluntary Principles on Security and Human Rights (VPSHR), Publish What You Pay (PWYP) and the Extractive Industries Transparency Initiative (EITI). Most often, these voluntary mechanisms do not require the public and private sector to work directly together in a project-like setting; rather, the collaboration occurs primarily at the policy level through annual meetings, conferences and workshops.

In Africa, the evolution of CSR has been intrinsically linked to the various mine reform processes implemented in the 1980s and 1990s. Campbell (2010) provides recent insight into how the liberalization of many African mining industries, promoted and

[1] In 2007, the Government of Canada organized the National Roundtables on Corporate Social Responsibility and the Canadian Extractive Sector in Developing Countries (Government of Canada, 2009). These round tables culminated in a new policy paper by the Government on CSR entitled, *Building The Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector.*

[2] Governments in this context refer to both Western Governments (often where an extractive company is based and or listed on a stock exchange) or host Governments (where extractive operations take place).

[3] This is often the case for Canada and the UK, where mining companies are listed on stock exchanges, even though they are headquartered in another country, with only a small representation office in Toronto, Vancouver or London.