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TRANSATIONAL POWER AND TRANSLOCAL GOVERNANCE: THE POLITICS OF CORPORATE RESPONSIBILITY

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TRANSATIONAL POWER AND TRANSLOCAL GOVERNANCE: THE POLITICS OF CORPORATE RESPONSIBILITY

Abstract

In this paper we provide a critical analysis of the politics of corporate social responsibility (CSR). We argue that CSR is a strategy that enables multinational corporations (MNCs) to exercise power in the global political economy. Using the global extractive industries as a context we focus on conflicts between communities, the state and MNCs that arise due to the negative social and environmental impacts of mining and extraction. In particular we analyze the role of political CSR and multi-stakeholder initiatives (MSIs) in managing conflicts and argue that these initiatives cannot take into account the needs of vulnerable stakeholders. We argue that power asymmetries between key actors in the political economy can diminish the welfare of communities impacted by extraction. We identify a number of governance challenges that arise as a result of these power asymmetries and develop a translocal governance framework from the perspective of vulnerable stakeholders that can enable a more progressive approach to societal governance of MNCs.

Keywords: corporate social responsibility; power; multinational corporations, governance; marginalized stakeholders

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TRANSATIONAL POWER AND TRANSLOCAL GOVERNANCE: THE POLITICS OF CORPORATE RESPONSIBILITY

Consider the following scenario: A large multinational corporation X in the oil and gas industry has been operating in a developing country Y since the 1950s. Over the years corporation X maintained close ties with a variety of political regimes that have ruled country Y including monarchs, dictators, military regimes, local militias and more recently, democratically elected governments. Corporation X's revenues and profits have increased substantially over the years and it is also a key contributor to country Y's economy by providing employment, tax payments and royalties. In addition, Corporation X also has a well-developed corporate social responsibility (CSR) program: it has contributed to building roads, schools and hospitals and is actively involved in a number of philanthropic ventures. It routinely publishes environmental and social reports and is a member of several multi-stakeholder initiatives (MSIs) involving non-governmental organizations (NGOs) and community groups. Corporation X has won numerous national and international awards for its CSR practices. It is a signatory to the United Nations Global Compact, the world's largest multi-stakeholder CSR initiative involving 9269 companies and 164 countries, and is also a founder member of the multi-stakeholder initiative Extractive Industries Transparency Initiative (EITI), a global standard that promotes revenue transparency and accountability in the extractive sector.

Despite the company's community engagement efforts and substantial financial contributions aimed at promoting community welfare, the local Indigenous communities that live near the corporation's operating facilities have been engaged in conflicts, often violent at times, with both the corporation and the government ever since operations began. The communities have seen their source of livelihoods disappear because of environmental damage to their lands and waters. Oil extraction has also resulted in increased social

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dislocation and an escalation of violent conflict between communities in the region. Despite

more than 50 years of oil extraction worth billions of dollars, the community's economic,

social and environmental conditions have worsened and they continue to live in dire poverty.

Economic development, which the government and the corporation promised extraction

would deliver, continues to elude these communities. In recent years armed groups emerged

in the region and carried out a series of attacks on Corporation X's facilities and personnel.

The corporation responded by increasing security personnel, and the government by

deploying the army to quell protests resulting in the killing of 20 unarmed villagers and

sparking a cycle of violence that continues to this day.

While the above example is hypothetical there is ample evidence that conflicts

between extractive industries and communities impacted by their activity is widely

prevalent[1]. For example the Environmental Justice Atlas (EJOLT, 2015), a comprehensive

online platform database that documents and catalogs environmental conflicts all over the

world, lists a total of 2,019 ongoing conflicts over social and environmental impacts of

projects such as mining, forestry, dams, transportation, fracking, drilling, exploration, waste

management, ore processing and others. In resource extraction projects alone there are 788

cases of ongoing conflicts in more than 60 countries.

The question of why the industry finds itself in conflict with the communities in

which it operates despite its stakeholder engagement and CSR activities has not been

satisfactorily addressed in the literature. In this paper we address this puzzle by critically

analyzing theoretical insights from the emerging literature on political CSR. To what extent

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[1] The geographical scope of conflicts involving the extractive industries is remarkable. Countries include
Angola, Argentina, Bangladesh, Brazil, Cambodia, Cameroon, Chile, China, Colombia, Costa Rica, Côte
d'Ivoire, Democratic Republic of Congo, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon,
Ghana, Guatemala, Honduras, India, Indonesia, Jamaica, Kenya, Laos, Liberia, Madagascar, Malawi, Mali,
Malaysia, Mexico, Mozambique, Myanmar, Nepal, Nicaragua, Niger, Pakistan, Panama, Papua New Guinea,
Paraguay, Peru, Philippines, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Thailand, Tibet, Trinidad &
Tobago, Tunisia, Turkey, Uganda, Uruguay, Venezuela, Vietnam, Zambia, Zimbabwe (EJOLT, 2015). And this
is a partial list.

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can political CSR address the needs of vulnerable stakeholders? What are the power dynamics that determine the political economy of natural resource extraction? What governance challenges arise and how should the extractive industry be governed to prevent conflicts? These are some of the questions that we will explore in the paper, as a way of illuminating how and why CSR needs to become more responsive to marginalized stakeholders.

One central argument runs through our paper: we argue that received knowledge about political CSR does not adequately take into account the interests of marginalized and vulnerable stakeholder groups. Political CSR as a process and extension of deliberative democracy has been described as 'a movement of the corporation into the political sphere in order to respond to environmental and social challenges such as human rights, global warming and deforestation' (Scherer and Palazzo, 2011: 910). It is our contention that attempts to fill the 'regulatory vacuum in global governance' through political CSR (Scherer and Palazzo, 2011: 899) will not serve the interests of marginalized communities in the developing regions of the world and may even diminish their welfare. Basically we argue that CSR does not travel well outside the Anglo-American context in which it was created and several key assumptions of CSR and stakeholder theory begin to unravel due to the very different cultural, social and political environments in non-European regions. The paper also has an explicit normative goal: to develop a locally grounded bottom up governance framework from the perspective of marginalized populations that can address the gaps that arise from a top down political CSR governance approach.

Our contribution is twofold: first, we contribute to theoretical development in the politicization and political role of corporations, particularly in the emerging area of political CSR. While insights from political CSR explicitly acknowledge the political role of multinational corporations there is very little analysis of how MNCs and their constituents

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exercise power in the political economy and our paper provides a more sophisticated account of the dynamics of power in CSR discourse. Second, we extend our critique by developing a translocal governance framework that has a clear normative justification from the perspective of marginalized stakeholders. Rather than dwell on how corporations manage stakeholders in an effort to enhance shareholder welfare by reconciling 'corporate responses to social misery with the neoclassical model of the firm' (Margolis and Walsh, 2003: 280), our approach is to use the social and economic tensions arising from extractive activities as a starting point for new theories and research on CSR and governance.

The paper is structured as follows: first, we provide a brief overview of the extractive industries, followed by a critical analysis of the extant literature on the political role of corporations in a globalized world. The paper then discuss the basic assumptions of political CSR and deliberative democracy and identify the limits of these approaches to solving social and environmental problems particularly in the developing regions of the world. This analysis provides the basic elements of a governance framework from the perspectives of vulnerable stakeholders who continue to be marginalized by political CSR. We conclude by discussing implications of our framework and providing directions for future research.

The Business of Extraction

The global extractive industry is one of the largest in the world with annual revenues of $5.4 trillion in 2015, operating in more than 100 countries. Non-renewable mineral resources play a dominant role in the economies of 81 countries, collectively accounting for a quarter of world GDP (World Bank, 2016). Six of the 10 largest corporations in the world belong to the extractive industries based on 2016 revenues.

The extractive industries also play a key role in the 'resource curse' faced by many countries in the developing world (Ballard and Banks, 2003; IBISWorld, 2013; PWC, 2013).

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More than 3.5 billion people, comprising half the world's population live in resource rich but cash poor regions. A majority of these regions share some common features: weak rule of law, weak governmental legitimacy, large power disparities between communities and business, and the presence of a variety of Indigenous populations. There is a clear pattern across Africa, the Americas, Asia, Australia and Europe that shows the benefits from extractive projects are not shared by communities that are most impacted by them (Ballard and Banks, 2003; Banerjee, 2008; 2011; Rees et al., 2012). In fact, most communities living in or around extractive sites have seen their sources of livelihood disappear. In the mining zones of Asia, Latin America and Africa between 35-55% of the population live below the poverty line despite billions of dollars of revenue generated from extractive activity (PWC, 2013).

Mining conflicts are also on the rise across the world (EJOLT, 2015). Studies of mining conflicts in Africa, Asia, Latin America and Australia all point to a lack of participation of affected communities in decision making and negative social, cultural, economic and environmental impacts as key drivers of conflicts (Banerjee, 2011; Bebbington et al., 2008; Ehrnström-Fuentes, 2016; Franks et al., 2014). Most of these conflicts involve violence: a recent report has documented the killings of 908 people ('a vastly underestimated figure' according to the report) in 35 countries over environmental and land issues between 2002 and 2013 (Global Witness, 2014). Brazil accounts for more than half of these killings. In Peru alone mining conflicts have increased by 300% during the last 5 years where there are 149 ongoing disputes involving the extractive industry (Rees et al., 2012). There is also a well-organized and well-resourced international civil society movement that aims at promoting more transparency and equity in the extractive sector and several multi-stakeholder initiatives (MSIs) involving non-state actors have emerged in recent times. While the extractive industries may represent an 'extreme' case of MNC-community conflicts given

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their significant environmental and social impacts, power dynamics between market, state and civil society actors provide an ideal context to examine the political role of MNCs in problematic domains.

The Politics of Political CSR

It is not our purpose to review the vast literature on CSR that goes back nearly 60 years. Instead, we point readers to several comprehensive reviews of the field (see for example Aguinis and Glavas (2012); Kolk, (2016); Scherer and Palazzo (2011)). The vast majority of the literature tends to be descriptive and instrumental with a focus on establishing an empirical relationship between CSR and financial performance. There is a fundamental unresolved tension between normative and instrumental approaches to CSR. A majority of CSR research has focused on win-win situations and not much is known about what happens in lose-win (when integrating the needs of external stakeholders can harm wealth-maximizing opportunities of firms) or win-lose situations (when corporate wealth maximizing diminishes social welfare). Moreover, the role of firms in shaping public social or environmental agendas, their role in disempowering or delegitimizing stakeholders opposed to corporate activity, their interactions with governmental and non-governmental bodies or power differentials between firms and marginalized stakeholders cannot adequately be explained by descriptive and instrumental approaches to CSR.

In an era of neoliberal globalization where business firms have taken on roles once the purview of governments, instrumental approaches to CSR become even less relevant. In order to understand the political role of corporations and its interaction with market, state and civil society actors and institutions, scholars have developed notions like corporate citizenship and political CSR (Matten and Crane, 2005; Scherer and Palazzo, 2007, 2011). Scherer et al. (2016: 276) define political CSR as 'those responsible business activities that

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turn corporations into political actors, by engaging in public deliberations, collective

decisions, and the provision of public goods or the restriction of public bads in cases where

public authorities are unable or unwilling to fulfill this role'. They point to examples where

corporations contribute to 'different areas of governance' such as public health, education,

social and environmental standards, climate change, corruption and inequality. Political CSR

reflects a general shift in the political economy toward market-based modes of governance

where private corporations become key actors within regulatory systems (Ezzamel and Reed,

2008).

The basic normative and theoretical assumptions of political CSR are drawn from

Habermas's work on deliberative democracy (Frynas & Stephens, 2015; Habermas, 1996;

1998; Mäkinen & Kourula, 2012; Scherer, 2017; Whelan, 2012). There is an underlying

assumption in political CSR that a deliberative process of corporate engagement with state

and civil society actors can lead to a more democratic public sphere (Scherer and Palazzo,

2016). However, as Barley (2007) points out corporate political influence can actually

undermine representative democracy because corporations regularly obstruct regulatory

agencies while lobbying governments and international trade bodies for business-friendly

legislation and. In the extractives sector, corporations and their industry associations are

powerful players in both deliberative processes and state politics, often giving them defacto

political authority to negotiate with states and communities impacted by mining.

Most corporations in the extractives industries have strong CSR and stakeholder

engagement policies, yet there are many studies that show that needs of local people are not

met, leading to conflicts (Bebbington et al., 2008; Gardner et al., 2012; Kraemer et al., 2013).

Mining companies' engagement with local communities tend to be relegated to 'community

relations' departments without meaningful integration into their core business (Kemp and

Owen, 2013). For instance, in her study of a conflict between the Porgera Joint Venture Gold

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Mine and the Indigenous Ipili, Coumans (2011) found that stakeholder engagement by the

mining corporation (an example of deliberative political CSR) provided legitimacy to the

corporation while undermining the goals and objectives of local actors. 'Experts' brought in

by the corporation (anthropologists and developmental NGOs) to resolve the conflict shaped

CSR solutions that benefited the company while neglecting community concerns about

environmental impacts and human rights abuses. Similarly, an ethnographic study of a

mining conflict in Ecuador revealed how CSR became another source of confrontation and

frustration among communities already impacted negatively by mining (Warnaars, 2012).

The company's strategy of community engagement involved focusing on particular

individuals and regions, capitalizing on existing territorial and community dynamics thus

contributing to the polarization of the conflict. Another study of the impact of CSR policies

of extractive industries in the Peruvian Highlands found no improvements in access to basic

services or improvements in housing conditions and poverty rates (Ticci and Escobal, 2015).

While there were marginal increases in employment due to mining most jobs went to

migrants with little or no opportunities for local populations, leading to increased social

tensions.

In its preoccupation with identifying proper procedures for deliberation, political CSR

can elide the problem of political authority. The creation of a seemingly fair and reasoned

deliberative process still requires political authority to enforce resulting decisions, and this

authority rests in most cases with the state. While stable state systems, the rule of law,

enforceable property rights regimes and a strong civil society are conditions that may exist in

Western democracies they are certainly not universal conditions and therein lies the

fundamental problem of theorizing political CSR using a Western lens to identify problems

and propose solutions. Exporting and imposing deliberative democracy to societies with

deep structural inequalities does not make the process more democratic especially if the

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structural inequalities restrict or deny access to marginalized populations to the deliberative process. In other words processes might be deliberative without being democratic, which brings into question the types of legitimacy that deliberative CSR can provide (Young, 2003).

According to Scherer and Palazzo (2011: 916) political CSR can provide moral legitimacy for firms because it 'requires the explicit consideration of the legitimacy of capitalist mechanisms and corporate activities by giving credit to the interests and arguments of a wide range of constituencies that are affected by the activities of (multinational) corporations'. The communicative process may well provide firms the basis for moral legitimacy but the process by which firms in the extractives industries generate moral legitimacy may be flawed because (1) the inherent practical difficulties, if not impossibility, of the deliberative process to be completely inclusive, public, and accountable and (2) formal inclusion of marginalized stakeholders cannot overcome the structural inequalities and biases that exist in society and these structural inequalities set constraints on the agenda and terms of any deliberative process (Young, 2003). The moral legitimacy provided by deliberative CSR allows corporations to pursue their interests while undermining local community interests. For instance, Kraemer et al.'s (2013) study of a mining conflict in eastern India showed how the mining corporation was able to undermine community resistance though a divide-and-rule strategy that isolated groups opposed to mining while rewarding others through money and gifts as part of their CSR based philanthropic activities.

Advocates of political CSR argue that the force of norms and ideas can serve as a countervailing force to corporate power in the political economy. Private regulation like 'soft laws' and voluntary standards become the norm for enhancing social and environmental performance of firms. The assumption is that standards and codes of conduct will protect marginalized populations without any reflexive examination of the consequences of this approach (Newell, 2005). Voluntary standards have been criticized for enabling firms to use

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deceptive accounting techniques and greenwashing (Frenkel and Scott, 2002; Lantos, 1999) and as a practice of self-regulation without sanctions, subject to opportunism. In some cases there were no discernible differences in practice between companies that signed up for voluntary standards and those that did not (King and Lenox, 2000). The Forest Stewardship Council (FSC), promoted as an ideal model of political CSR is an example of how a focus on processes that are supposed to promote democratic accountability produced the opposite outcome: a lack of transparency and accountability that favored powerful stakeholders like certification bodies, NGOs and corporations while further marginalizing weaker stakeholders (Edward and Willmott, 2008). Analyzing the evolution of the FSC over the last 20 years, Moog et al. (2015) found that the new forestry standards neither transformed commercial forestry standards nor did it reverse the trend of tropical deforestation. Power imbalances between market actors and NGOs along with weak state regulation were the reasons cited for the limited effectiveness of forestry standards. It is difficult to see how these voluntary standards and multi-stakeholder initiatives can 'help rebalance the power between governments and corporations' (Scherer et al., 2016: 284). Deliberative processes may seek out a plurality of voices but they do not always provide spaces for dissent and conflict. As a result, 'consensus' becomes more of a hegemonic accommodation to dominant interests. The 'deliberative' processes of consultation in mining conflicts do not reveal the forced nature of agreements and disallows the emergence of more collectively based alternatives (Edward and Willmott, 2008: 425). And therein lies the fundamental weakness in political CSR: its lack of self-reflexivity arising from a failure to account for power asymmetries, as we will see in the next section.

Power and Legitimacy in CSR Governance

Explicit analysis of power in CSR has not received sufficient attention in the literature

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barring a few exceptions (Banerjee, 2008; Fleming and Jones, 2013; Gond et al., 2016). In their analysis of power and politics in CSR, Gond and Nyberg (2017) describe how 'classical and market-centred CSR' reflects an 'institutional/structural' approach to power where legitimacy is created through dominant actors and institutions in national contexts. Political CSR scholars following Habermas's notion of 'postnational constellations' focus on the normative basis of power, in particular how power creates legitimacy through deliberative processes, which become the basis of global governance.

Institutional, material and discursive power defines the political economy and governance of resource extraction. For instance, supranational institutions like the World Bank and International Monetary Fund provide loans to developing countries for extractive projects under conditions of 'structural adjustment', which basically means providing access to mineral resources to mining corporations. A 1992 report by the World Bank entitled 'Strategy for African Mining' examined the reasons for the 'demise of Africa's mining performance' and proposed a 'strategy for accelerating mining sector growth' that involved 'complete privatization of the sector' (World Bank, 1992). As Hilson (2012) argues, the financial terms of World Bank funded extractive projects in developing countries coupled with state corruption and corporate collusion with state officials help explain why countries with thriving extractive industries continue to rank at the bottom of the United Nations Human Development Index.

Structural power of transnational mining corporations derives from their wealth and annual revenues that often surpasses the annual GDP of the countries in which they operate. For example Royal Dutch Shell, which has a long and troubled history of oil extraction in the Niger Delta ranked 27th on the list of the World's Top 175 Economic Entities in 2010 with annual revenues of $378 billion, whereas their host country Nigeria ranked 56th on the list with annual GDP of $193 billion (Hilson, 2012). Such wide economic disparities between

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host countries and mining corporations tend to consolidate the bargaining power of transnational corporations (Shapiro et al., 2007).

Finally, the discursive power of CSR serves to further corporate interests by enabling the discursive construction of legitimacy, which allows extractive industries to operate despite their negative environmental and social impacts (Ehrnström-Fuentes, 2016; Joutsenvirta and Vaara, 2015). Industry codes and standards that emerge from CSR discourse provide more legitimacy to market actors rather than to vulnerable populations impacted by mining, who generally lack institutional and material power (Lindsay, 2011). As Utting (2005: 383) points out the 'capacity of big business to modify its discourse is often considerably greater than its capacity to improve its social and environmental performance'. In the political sphere the structural power of corporations enables then to establish economic rules of the game. Their relational power through their relationships with key state and non-state actors in the political economy also enables them to establish political rules that determine the process by which economic rules are made (Clegg et al., 2006; Marti et al., 2008). These practices are discursive in the sense that they constitute and are constituted by knowledge appearing as specific institutional and organizational practices. They become discursive because they reproduce knowledge through practices that are made possible by the structural assumptions of that knowledge - 'a system of practices that sustains beliefs not a system of beliefs that sustain practices' (Clegg and Haugaard, 2009: 436).

In developing a theory of political CSR, Scherer and Palazzo (2011) and in a later formulation (Scherer et al., 2016) conceptualize power mainly in relation to the declining ability of states to regulate multinational corporations. Their conceptualization of politics as 'public deliberations, collective decisions and the provision of public goods' (Scherer et al., 2016: 276) without taking into account that all of these are outcomes of power relations is problematic. While they acknowledge that the 'political power' of non-state institutions like

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NGOs and corporations has increased in recent years there is no attempt to analyze what outcomes for society result from this shift. Instead, following Habermas, they argue that moral legitimacy that arises from a communicative process does not rely as much on the power of the actors involved in the process but rather on procedural design. A 'better design' of communicative processes would somehow 'neutralize' power differences, subjecting corporations to new forms of democratic control and providing a more democratic framework for global governance.

Such an approach to power is patently unsatisfactory because it elides relationships between power, legitimacy and authority. One cannot assume legitimacy always exists without domination (Clegg and Haugaard, 2009). Legitimacy produced by communicative rationality – the basis of Habermasian deliberative democracy - is based on particular forms of successful power, which remain 'outside' of political CSR discourses without an acknowledgment that power is constitutive of social relations (Mouffe, 1999: 753). The universalization of particular forms of legitimacy through deliberation and consensus marginalizes legitimate struggles of vulnerable populations because it does not acknowledge a pluralism of values and rationalities. As Mouffe (1999: 756) argues 'every consensus exists as a temporary result of a provisional hegemony, as a stabilization of power, and that it always entails some form of exclusion. The idea that power could be dissolved through a rational debate and that legitimacy could be based on pure rationality are illusions, which can endanger democratic institutions'. Deliberative PCSR in its quest for consensus elides the implications of the link between legitimacy and power by implicitly trusting that deliberation will lead to better and more progressive outcomes for all stakeholders.

In the context of global governance PCSR claims to 'formulate conditions of legitimate political will-formation and rule enforcement in particular in contexts where governments are absent, corrupt or repressive and where private or civil regulation might be

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the only available forms of regulation' (Scherer et al. 2016: 283). However, such a

perspective assumes that an absence of regulation implies an absence of power, which is not

the case. In their study of sustainability standards in coffee production Levy et al. (2016:

389) found PCSR practices did not attain the 'Habermasian ideal of public spirited business

participating in an open process of deliberative democracy'. Moreover, a series of

hegemonic accommodations between corporate actors and NGOs transformed the meaning of

sustainability itself from a radical social and environmental vision to more instrumental goals

aligned with corporate interests. As in the case of the Forest Stewardship Council discussed

earlier strategic contestations over sustainability shifted the power from NGOs to corporate

actors. What these deliberative processes do not reveal is the outcomes at the local level:

while the evolution of sustainability standards in coffee production reveals contestations and

accommodations among corporate, state and civil society actors, the process of 'legitimate

political will-formation' can further marginalize the individual coffee farmer.

Competing legitimacies are at the root of many conflicts in the extractive industries,

with various stakeholder groups vying to shape the legitimacy (or illegitimacy) of extractive

projects (Gond et al, 2016). If legitimacy is the outcome of relations of power then it

becomes important to critically analyze the legitimation processes that are deployed by

market, state and civil society actors. In the context of PCSR the legitimacy of market actors

is enhanced by voluntary standards, codes of conduct and multi-stakeholder initiatives.

These practices while conferring moral legitimacy to firms are also aimed at generating

consensus and inclusion, which are the desired outcomes of deliberative processes. However,

if desired outcomes at local levels are fundamentally different (self- determination or

autonomy instead of inclusion for example), then the processes that are designed to deliver

consensus and inclusion can no longer be trusted.

Take for instance the recent conflict between the mining corporation Vedanta Limited

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and tribal communities in India (Kraemer et al., 2013). The company negotiated a

memorandum of understanding with the state government to construct a bauxite mine in the

Niyamgiri hills in the eastern state of Odisha in India. The area is a sacred site and a source

of livelihood for the Dongria Kandh tribe that has inhabited the region for thousands of years.

The tribals were firmly opposed to the mine from the beginning and refusing all offers of

compensation and rehabilitation started a local resistance movement that soon became a high

profile movement receiving wide national and international media coverage. After more than

a decade of struggle using a variety of direct action tactics, legal challenges and political

pressure, the resistance movement was successful in obtaining a court order overturning the

prior approval of the mine with the Supreme Court of India ruling that the mine could not

proceed without the tribal community's approval.

From a corporate and market perspective extracting bauxite from a mountain created

wealth, provided jobs and any environmental and social impacts could be addressed through

CSR practices. Thus, the company's mission statement is perfectly legitimate:

> 'We believe our strategy and business objectives will harness India's high-quality
> wealth of mineral resources at low costs of development, positioning it as a leader
> on the global metals and mining map……Vedanta Limited is a socially
> responsible corporation that aspires to transform the lives of people surrounding
> its plant site. We firmly believe in making the local people a participant in the
> growth process of the organization and works as a facilitator of socio-economic
> transformation of rural parts of Orissa' (Vedanta Limited, 2016).

The problem however lies in 'transforming the lives of people surrounding its

plant site'. The tribal communities, for whom the Niyamgiri mountain carried

significant cultural value and was a source of their livelihood, had a very different

relationship to the 'plant site'. In the words of a tribal member resisting the project:

> 'Without Niyamgiri we cannot think of life. If we lose the mountain we will end
> up in great trouble. We'll lose our soul. Niyamgiri is our soul. If Niyamgiri goes
> our soul will die' (Survival International, 2016).

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These competing and incommensurable worldviews inevitably lead to conflict that political CSR deliberative processes cannot accommodate because contrary to the premise of the global economic paradigm 'there can be no universal metric for comparing and exchanging the real values of nature among different groups of people from different cultures, and with vastly different degrees of political and economic power' (McAfee, 1999: 133).

Attempts to build 'local legitimacy' by mining corporations through deliberative CSR processes continue to be driven by their interests. In analyzing efforts of Newmont Mining to respond to health hazards and water contamination caused by spillage of waste mercury at their Yanacocha mine in Peru, Gifford et al. (2010) described how the company hired medical specialists to conduct an independent health assessment of communities impacted by mining. The recommendations of the group included designing and implementing a 'comprehensive strategy of social investment in health and development', designing a 'sustainable communication infrastructure to improve healthcare' and investing in 'improving healthcare facilities and equipment' (Gifford et al., 2010: 307). The question of whether the mine should continue to expand its operations never entered the deliberative process. It was only after years of community opposition and direct action that the company finally backed down from their expansion plans (Perlez and Bergman, 2010). Consensus building, deliberative processes, public deliberations – key elements of building legitimacy through political CSR – were simply rejected by communities negatively impacted by mining operations because their one key demand, which was to stop the expansion project, could not be accommodated in any corporate driven deliberative process. Instead, dissent and activism become key defensive weapons, especially when dialogue was structurally biased towards powerful actors, as it inevitably is when extractive corporations and states negotiate with communities. In the long and troubled history of interactions between the extractive

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industries and Indigenous communities there have been many cases where community

members refused to participate in stakeholder engagement because of the structural biases of

the process privileged certain outcomes while rejecting others (Banerjee, 2011; Young,

2003).

Deliberative processes may be seen as democratic by market and state actors but can

be undemocratic from the perspective of marginalized and dissenting minorities (Clegg and

Haugaard, 2009). It is difficult to see in the face of structural inequalities and hegemonic

accommodation how political CSR and multi-stakeholder initiatives (MSIs) can permit more

'democratic control on the public use of corporate power' (Scherer and Palazzo, 2007: 1109).

Rather, PCSR as a form of global governance is more likely to result in corporate capture of

the public sphere (Gilberthorpe and Rajak, 2017).

At this point it would be useful to clarify what we mean by governance. The

literature on governance is vast and complex spanning a variety of disciplines like political

science, economics, law, international relations, sociology and organization studies and it is

beyond the scope of this paper to provide an overview of the field. While acknowledging

that governance is a 'code of complex colours' (Ezzamel and Reed, 2008: 597) our analysis

of governance regimes in the political economy is informed by Foucualt's conceptualization

of governance as a contested terrain of power/knowledge relations (Foucault, 1991). Our

focus is *not* on corporate governance with its internal focus on fiduciary responsibilities of

directors and boards but rather on the governance *of* corporations *for* society. As discussed

earlier, governance through political CSR is a practice of exercising power in the political

economy through a variety of institutions and mechanisms. The discursive capacity of PCSR

sets the parameters of practice for a governance framework by rearranging social relations

designed to generate consent and co-optation while silencing dissent (Rajak, 2011).

We adopt Crouch's (2005: 20) definition of governance as 'those mechanisms by

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which the behavioural regularities that constitute institutions are maintained and enforced'. Such an institutionalist perspective on governance enables us to examine the exercise of power and authority in all its forms, whether through formal state and public 'hard' regulation or private, informal 'soft' laws such as regulatory standards or codes of conduct (Ezzamel and Reed, 2008). From this perspective practices of governance involve both regulatory and normative mechanisms where MNCs play a key role in influencing institutional development through their participation in transnational policy networks (Dahan et al., 2006; Geppert et al., 2006).

Multi-stakeholder initiatives (MSIs) involving market and civil society actors are key elements of private governance regimes and a fundamental assumption of political CSR is that firms' engagement with state and non-state actors will deliver better social and environmental outcomes, especially in regions where states fail to govern effectively. For example the Extractive Industries Transparency Initiative (EITI), a multi-stakeholder initiative involving companies, governments, investors and civil society organizations is a global standard that promotes revenue transparency and accountability in the extractive sector. Member countries are required to disclose information on tax payments, licences, contracts and other information on resource extraction (EITI, 2016).

The assumption behind the EITI standard is that promoting disclosure and transparency in the extractives sector will benefit communities impacted by mining and reduce conflicts. Unfortunately, available evidence on corporate disclosure indicates otherwise – as Brown et al. (2009: 2) found in their analysis of the Global Reporting Initiative Sustainability Reporting Guidelines, corporate information disclosure had 'little impact in shifting the balance of power in corporate governance toward civil society'. Since its launch in 2002, there have been extensive studies about the effectiveness of EITI particularly in the conflict regions of Africa (Andrews, 2016; Haufler, 2010; Hilson and

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Maconachie, 2009; Smith et al, 2012). The results are remarkably consistent: EITI has not

only failed to deliver on its stated goals of better natural resource management, a reduction in

corruption and conflict but in many cases has led to further marginalization of communities

negatively impacted by mining. The voluntary nature of disclosure, variability in the

accuracy of the data provided, differing stakeholder expectations, asymmetrical power

relations, institutional disinterest in policy reform and disparities between mining royalties

and positive developmental outcomes were the main factors that made EITI ineffective in

natural resource governance (Andrews, 2016). EITI served as a legitimating device for

countries and corporations to commit to reform but did not result in delivering reforms or

reducing corruption. Like the GRI Sustainability Reporting Initiative, EITI appears to be a

'triumph of form over results, with real power remaining the hands of governments and

corporate elites' (Haufler, 2010: 69).

Another industry body is the International Council on Mining and Metals, comprising

23 mining and metals companies as well as 35 mining associations, which was set up in 2001

'to improve sustainable development performance in the mining and metals industry (ICMM,

2013). In their 2013 report '*Good practice guide: Indigenous peoples and mining',* ICCM

recommended that its members 'respect the rights, interests, special connections to lands and

waters, and perspectives of Indigenous Peoples, where mining projects are to be located on

lands traditionally owned by or under customary use of Indigenous Peoples' (ICMM, 2013).

The good practice guide also recommends MNCs obtain 'free, prior and informed consent'

before proceeding with mining projects, which is also a key clause in the 2007 United

Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2010).

However, these MSIs and good practice guidelines are top down and company

focused and while providing moral legitimacy to mining companies do little to address the

needs and aspirations of local communities. For example, in her ethnographic analysis of

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CSR practices of the mining giant Anglo American in South Africa, Rajak (2011: 12) shows

how moral legitimacy provided by CSR also becomes translated into sources of authority in a

largely privatized system of global governance, enabling the company to 'transform social

relations and projects to a particular set of corporate interests and values'. Owen and Kemp

(2014: 94) make a similar point in their analysis of free, prior and informed consent arguing

that it focuses primarily on legal and compliance issues without any meaningful engagement

with social, political and cultural contexts.

A recent report on Indigenous communities and the extractive industries to the United

Nations Human Rights Council found that the 'business model that still prevails in most

places for the extraction of natural resources within indigenous territories is not one that is

fully conducive to the fulfillment of indigenous peoples' rights, particularly their self-

determination, proprietary and cultural rights in relation to the affected lands and resources'

(Anaya, 2013: 3). While the report recommended that consent should be sought in all cases it

stated that consent is not a 'free-standing device of legitimation' (p. 10) and expressed

concern that 'many corporations still do not commit to more than complying with national

law and fail to independently conduct the relevant human rights due diligence' (p. 15). The

report also pointed to 'significant imbalances of power' between Indigenous peoples and

mining companies and that there was 'little systematic attention by States or industry actors

to address these power imbalances' (p. 17). As we have seen earlier deliberative processes of

PCSR do little to address these power imbalances and the many ongoing conflicts and

resistance movements against resource extraction (see Table 1 for a selective list of ongoing

conflicts) can be seen as attempts by communities to assert their power.

INSERT TABLE 1 ABOUT HERE

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Every company listed in Table 1 that is currently involved in conflicts has CSR and stakeholder engagement policies. Every company involved in conflicts is also a signatory to the Extractives Industry Transparency Initiative (EITI), which is the gold standard for responsibility in the mining sector. Twelve of the 26 countries listed in Table 1 are also signatories to the EITI. Every company is a signatory to the Voluntary Principles on Security and Human Rights and except Exxon-Mobil and Chevron, every company is a signatory to the United Nations Global Compact, the world's largest multi-stakeholder CSR initiative involving 9269 companies and 164 countries (United Nations Global Compact, 2015). If CSR is the strategy for companies and states to engage with Indigenous communities then clearly it is not working because despite a host of CSR policies, stakeholder engagement guides and human rights standards, conflicts are on the rise.

Thus, political CSR governance regimes are more about regulation *for* business than regulation *of* business. The extent and scope of violent mining conflicts all over the world is an indication of the failure of communicative processes and consequently there is a need to understand the gaps in governance and CSR that led to these conflicts, how these conflicts can be resolved and how future conflicts can be prevented (Kolk and Lenfant, 2013). Multistakeholder initiatives, standards and guidelines along with the increasing presence of private actors that constitute the governance of resource extraction cannot address authority, capability and representation gaps, which often leads to conflict (Banerjee, 2014). As we have seen earlier structural and discursive power asymmetries between local communities and mining companies mean that the latter group along with their industry associations have greater authority and capability to participate in governance. In addition, the political agency of marginalized populations is often contingent on representation by NGOs at distant national or international forums, which results in a representation gap in governance.

Thus, PCSR practices are ways of exercising power in the economy by establishing

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and sustaining normative criteria for legitimate processes. PCSR governance regimes may

provide legitimacy to powerful market and state actors but their hegemony does not go

unchallenged as evidenced by the hundreds of ongoing conflicts over resource extraction.

Conflict, dissent, even violence can be seen as a failure of hegemony because where there is

power there is resistance (Laclau and Mouffe, 1985). If as Clegg and Haugaard (2009) point

out the task of normative theory is to identify criteria for justifying authority, a normative

governance framework would focus more on the needs, values, aspirations, livelihoods and

ways of being in the world of local communities rather than on top down deliberative

processes designed to obtain consent for mining projects. In the next section we develop a

translocal governance framework from this normative standpoint that does not disempower

marginalized communities but may enable genuine transformative arrangements between

mining corporations and the communities in which they operate.

Democracy from Below: Towards a Translocal Governance Framework

We believe there are lessons to be learned from the numerous resistance movements

against extractive industries that can provide a preliminary framework for a more progressive

approach to MNC-community relationships. If, as we have argued, deliberative democracy

does not serve the interests of marginalized populations perhaps different conceptualizations

of democracy, such as Mouffe's (1999: 754) notion of 'agonistic pluralism' can offer

alternative insights. A preoccupation with consensus in governance can elide processes of

exclusion, resulting in a displacement of the political – ironically political CSR through its

attempts to explicitly address the political role of corporations leads to a depoliticization of

the public sphere. As Mouffe (1999: 754) argues:

> 'Hence the importance of distinguishing between two types of political relations:
> one of antagonism between enemies, and one of agonism between adversaries.
> We could say the aim of democratic politics is to transform an "antagonism" into
> an "agonism". This has important consequences for the way we envisage

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politics. Contrary to the model of 'deliberative democracy" the model of "agonistic pluralism" asserts that the prime task of democratic politics is not to eliminate passions nor to relegate them to the private sphere in order to render rational consensus possible, but to mobilise those passions towards the promotion of democratic designs'.

Resistance movements reflect the agency of communities in the face of structural inequalities and corporate and state power and can provide insights on how locally based democratic governance arrangements can emerge. Recent examples include Newmont Mining's decision to suspend expansion plans for a mine in Cerro Quilish in Peru (Perlez and Bergman 2010); Osisko's decision to abandon its gold mining project in La Rioja province of Argentina (BBC, 2016); and a Supreme Court decision in India reversing a prior approval given to Vedanta Limited to build a bauxite mine in the state of Odisha (Kraemer et al., 2013). These movements occurred largely outside the formal deliberative processes that tended to exclude local communities from direct participation.

Governance gaps arise between the 'scope of economic forces and actors, and the capacity of societies to manage their adverse consequences' thus providing the space for corporations to commit 'wrongful acts without adequate sanctioning or reparation' (Ruggie, 2008: 3). As we have seen earlier, it is naïve to expect that the interests of vulnerable stakeholders will be served if MNCs fill these governance gaps through their political CSR initiatives. Marginalized communities that are the most impacted by extractives have little or no formal authority to negotiate projects at the international or national level. Even when consultation is legally specified they are conducted in vastly unequal conditions that favor corporations and their associations leaving communities at a disadvantage. In a study of mining consultations with Aboriginal communities in Australia, Tatz (2003) found that communities were generally the 'receivers of consultation' once a decision on mining was taken at the national level. Similar practices can be seen in other locations: in virtually all cases of 'consultation' with local communities the main concern of market and state actors

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was to identify the conditions under which extraction could proceed – royalty payments,

building infrastructure, schools, hospitals, and roads are key aspects of the negotiating

process rather than addressing the fundamental concerns of most Indigenous communities:

whether extraction should proceed at all, and if so what are the social, economic, and

environmental impacts and what other economic development opportunities are available

(Banerjee, 2011)? These incommensurable positions mark the structural limits of

deliberative processes and also become sources of conflict.

Resistance movements around the world against extractive industries are demands for

community voices to be heard and for more democratic processes of decision-making.

Specifically, marginalized communities need democratic processes where they are neither

excluded due to institutional and political constraints, nor because their concerns, norms and

aspirations are incommensurable with market expectations and state development policies.

Despite assertions that deliberative political CSR processes can accommodate diversity there

are tensions between different local contexts of democratic spaces and the universalism

demanded by a global political system (Lupel, 2009). In order to ensure that the welfare of

vulnerable stakeholders is not diminished there is a need for locally based models of firm-

community relations where communities set the agenda and terms of engagement. Thus, the

normative basis of translocal governance is the economic, social, environmental and cultural

welfare of marginalized communities. In political CSR, the goals of deliberative processes

are inclusion and building consensus among stakeholders whereas for translocal governance

the goals are coexistence, autonomy and self-determination of the community. Table 2

summarized key features of political CSR and translocal governance.

INSERT TABLE 2 ABOUT HERE

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We propose that translocal governance represents a normative approach that is better suited to contexts featuring marginalized communities. We do not present this framework as a substitute for political CSR but as a complementary approach to the governance of resource extraction. Firms and stakeholders in established regulatory regimes and where power asymmetries are less acute would do well to continue pursuing deliberative CSR. But in difficult regulatory environments in which the extractives industries operate it may be preferable to start from the normative standpoint of marginalized communities instead of focusing on how corporations can generate moral legitimacy for themselves through deliberation. Political CSR through its deliberative processes risks reinforcing the legitimacy of existing institutional arrangements that disempower local communities while silencing dissent (Young, 2003).

Translocality refers to the multiplicity of local spaces and actors and their interrelationships in a global world. The prefix 'trans' refers to the ability of translocal engagements to 'both transcend territorial locality and change the local spaces from which they emerge' (Banerjee, 2011: 331). Communities inhabiting these spaces interact with particular configurations of market, state and civil society actors and form relationships with local activists, community groups, domestic and international NGOs, and political parties. These relationships are not stable but shift over time, contingent on the community's agentic efforts toward self-determination. Translocality can also be seen in the diversity of Indigenous tribes living in different nation states yet sharing a common relationship with the land that transcends national borders.

Translocal governance networks are different from the more vertical nation state modes of governance (Sassen, 2006), as they do not aim to embed firm-community relations in implicitly hierarchical decision-making processes. Translocal engagements primarily work in a lateral fashion: communities make alliances with other communities and local actors and

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firm-community interactions tend to be direct and not mediated by participation in larger

forums. For instance, communities attempting to assert self-determination over their lands

within a sovereign nation state are deploying forms of 'ecological nationalisms' as a new

form of political identity (Cederlöf and Sivaramakrishnan, 2005). While these identities may

not challenge the sovereignty of nation states they can lead to new forms of local authority

that can provide some means of self-determination whereby community councils can decide

on any development projects on their lands. Examples can be seen in the emergence of

locally derived organizational forms like *gram sabhas* in India or *los caracoloes* in Latin

America that are more representative of community concerns and which are deployed by

communities to negotiate with corporations and governments. The social and political

arrangements of these organizations reflect Indigenous epistemologies and ontologies where

social relations are based on reciprocity and exchange rather than competition (Banerjee,

2011; Mignolo, 2007). They represent forms of democracy from below and are more

participative than representative or deliberative democracy.

While translocal networks operate primarily locally they have influences at multiple

levels regional and national levels. For example, in a conflict over a plant to be built by Tata

Steel in Kalinganagar in the Indian state of Odisha, 12 tribal members were killed by police

while they were protesting forcible land acquisition and insufficient compensation (Pathi,

2010). The shootings were widely condemned and galvanized mobilization efforts of the

community, which eventually forced the Indian authorities to rethink the land acquisition

process for development projects and resource extraction leading to the passage of the 'The

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Bill' in August 2013 (Indian Express, 2013).

Focusing on the translocal as a mode of governance in the global extractive industry

opens up new spaces for theories and practices of governance in two ways. First, it avoids a

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market/state centric analysis of governance because it acknowledges the existence of multiple

local spaces across different nation states with differing configurations of market, state and

civil society relationships. Second, translocal spaces can create new sources of agency for

communities that choose not to accept extractive mode of development, which is the

hegemonic model at international and national levels. Local alliances can help strengthen the

legitimacy of local concerns thereby giving communities a stronger voice rather than a

tokenistic presence in deliberations. Rather than ask under what conditions can extractive

projects proceed, the question a governance from below framework will ask if extraction

should be allowed in the first place based on the criteria whether the project will enhance

community welfare. In this model, any exploration or pre-extraction activity could proceed

only if local communities consented to the project and where internal or external consultation

processes reflected their cultural and social modes of decision-making. Translocal

governance thus reflects communities' normative authority at the local level to make

decisions about land use without disqualifying arguments, resources and strategies important

to their political success, which tends to occur in deliberative processes where other parties

have hegemonic authority (Scott, 1985).

Conflicts between MNCs and communities over resource extraction are ultimately

conflicts over competing legitimacies and worldviews. For example, a profound and

challenging aspect of these struggles is Indigenous relationships and attachment to land. If

relationship with the land is the fundamental basis of all conflicts involving Indigenous

communities then that relationship becomes the normative basis for any locally derived

governance framework where the goal is self-determination of communities. Indigenous

ecology, which reflects thousands of years of Indigenous philosophies of connections with

land, spirituality, stewardship and sustainability, would be central in this framework, as

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would an explicit recognition of the alternate temporalities of Indigenous communities that

inhabit the same space as other citizens of a state.

Juxtaposed temporalities and incommensurabilities between market and community

interests over development are evident in conflicts over extractive projects. For instance, in a

conflict in India discussed earlier there were competing worldviews about land where a

mountain is described both as 'the soul' of the tribe by Indigenous communities and as a rich

source of bauxite by a mining company and the Indian state. The temporality of the

corporation and the developmental nation state and its concomitant need for economic

growth sits side-by-side with alternate temporalities of Indigenous communities that inhabit

the same space. Differing temporalities are produced by the differential rate of acceleration of

economic activities in different spaces within the territoriality of the nation state (Sassen,

2006). Indigenous views of land as a bundle of relationships stand in stark contrast with the

market/state nexus view of lands as a bundle of property rights.

Thus, self-determination cannot be reached without a clear understanding of how

communal property rights can be articulated at international, national and local levels of

decision making for extractive projects. While the extractive industry is aware, and

sometimes even cautiously respectful, of communal and customary property rights, there are

few remedies and innovative solutions that effectively speak to these issues (Banerjee, 2011).

In fact, many typical 'best practice' cases firms effectively recognize community claims, but

in an aggregated individual manner. For example, the corporate concession in many

extractive negotiations is for the project to go ahead, but for affected individuals to be

compensated (Reuters, 2013). Compensation of individuals undermines the communal

relationship between communities and their land and creates conflicts. To prevent conflicts it

is crucially important that communities be able to drive the discussion and agenda over

development and land use. How this can be achieved remains a major challenge and in the

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concluding section we will discuss the implications of our governance framework for theory and practice.

Implications and Directions for Future Research

As we have shown deliberative processes of governance through political CSR are unable to accommodate competing legitimacies that are often the source of conflicts over resource extraction. The preoccupation to reach consensus through deliberation obscures processes of domination and disallows spaces of difference and co-existence. Perhaps a translocal imagination will allow us to overcome the universalization of governance demanded by political CSR and envision instead a 'pluriverse' of coexisting legitimacies (Ehrnström-Fuentes, 2016: 433). We readily acknowledge that any such normative interventionist project would be extremely ambitious, both from the perspective of theory-building and managerial or political practice. But we believe maintaining the status quo that is deliberative CSR is problematic as well. We hope to contribute to a more nuanced understanding of the political dynamics that underlie current conflicts between corporations and local communities in the extractive sectors by building a more grounded theory of governance.

The key challenge is under what conditions can such a framework be implemented? Why would managers working in MNCs or government officials responsible for economic development consent to a 'governance from below' approach? Financial losses due to delays and stoppages, undermining of a MNC's 'social licence to operate' as a result of conflict, emergence of political organizations championing Indigenous rights could provide the impetus for a governance approach that allows for a plurality of outcomes. A recent study of company-community conflicts concluded that the cost of conflicts to the company ranged from $20 million per week to $100 million per year (Franks et al, 2014). In India extractive

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projects representing an investment of £31 billion have been halted by massive protests and

resistance movements (Banerjee, 2011). In the Philippines, land disputes have put at risk a

$5.9 billion investment in a copper and gold mine projected to add 1% to national GDP

(Provost, 2013). These resistance movements can serve as the catalyst for shifts in the

political economy leading to changes in social arrangements about property rights,

governance, authority and accountability, which in turn influence decision-making processes

and outcomes in corporations. Localized approaches to governance may overcome weak

processes of law or non-enforcement of regulation, identify potential areas of conflict and

diffuse them before they erupt.

Such a shift requires the creation of new governance regimes that protect community

property rights (including the right to say no to extraction in the name of development). The

struggles of communities in the extractive industry are about establishing accountability,

from the state that is supposed to protect their citizenship rights, from market actors that

extract wealth from their lands, and from civil society actors that represent the interests of the

marginalized. Discourses of responsibility and corporate citizenship obscure the power of

business in setting the CSR agenda while notions of accountability demand a more explicit

acknowledgement of the effects of asymmetrical power relations (Newell, 2005).

The normative basis of translocal governance can point the way to 'polyphonic' forms

of organization (Hazen, 1993), which implies the active presence of a plurality of voices and

actors from economic, social, cultural, political, juridical and pedagogical spheres. Perhaps

new hybrid organizational forms can emerge that integrate community leadership with

corporate finance and technical staff in order to create organizations that are embedded in a

system of local values. A translocal imagination would envisage organizations that are built

on the basis of a nexus of relationships instead of a nexus of contracts, relationships that are

informed by reciprocity, cooperation and an enduring commitment to land and community

welfare. These new organizational forms, where marginalized voices are listened to instead

of being 'receivers of consultation' could then be buttressed by a governance framework with

regulatory features at the national level as well as 'community driven regulation' that

promotes corporate and state accountability at local levels (O'Rourke, 2004).

We call for a more critical agenda for CSR and governance research and point to three

directions for future research. First, there is a need for empirical data that can illuminate both

political CSR and our formulation of translocal governance. Case studies of the deliberative

processes of top down political CSR should be juxtaposed with ethnographies of anti-mining

resistance movements. These narratives will yield valuable insights into the tensions,

contradictions and opportunities that arise from corporate activity in difficult regulatory

situations and may show how 'the respective strengths of deliberative and radical

formulations of democracy may complement each other without demanding that they can be

fused' (Edward and Willmott, 2008: 418). Second, there is a need to understand from a

positive and normative perspective how corporations do business with repressive state

regimes. If states cannot be trusted to fairly mediate firm-community conflict, where could

firms and communities turn to for intercession or arbitration? Under what conditions should

firms deal directly with communities that will be impacted? How should multinational

corporations deal with the state and the community when both actors have legitimate claims

to the land? The CSR literature has never engaged with these questions in any depth and

there is a need for more research on this topic. Finally, our translocal governance framework

has implications for theory development in corporate governance based on social impacts of

corporate activity and the growing importance of multiple stakeholders (Tihanyi et al., 2014).

Such a political model of corporate governance goes beyond prioritizing the preferences of

investors and includes corporate provision of 'political goods' such as human rights by

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giving voting rights to community groups negatively impacted by corporate activity (Whelan, 2012).

A final point: it is important to note in suggesting a translocal approach to the governance of political CSR we are not privileging the local in an unproblematic way. Rather, the same reflexivity that we used to problematize CSR is required to investigate new relations of power that arise from a translocal approach. As Ballard and Banks (2003) point out the notion of 'community' is contested in terms of membership, inclusions and exclusions, which can lead to inequalities and marginalization within communities. It would also be wise to heed Ezzamel and Reed's (2008) warning about how potentially transformative governance mechanisms can have unintended consequences that can disadvantage groups they were originally meant to serve. More than 50 years ago the historian Laurence Veysey wrote: 'shared governance has always been a useful device whereby administrative leaders could sound out opinion, detect discontent so as to better cope with it, and further a posture of official solidarity by giving everyone parliamentary "rights"' (Veysey, 1965: 305). As we have seen contemporary forms of CSR suffers from the same weakness. In this paper we have attempted to address this weakness by providing a more grounded approach that can complement political CSR with a clear normative goal: that governance is not only for the governors but should and can be shared between those who govern and those that are governed.

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Table 1. Selected List of Conflicts involving the Extractives Industries and Indigenous Peoples.

Company Name	Number of on going conflicts	Countries involved
Royal Dutch Shell^+# and Shell Petroleum Development Company	66	Algeria, Brazil, Canada, Ecuador, Nigeria*, Tunisia
Chevron Corporation^#	22	Angola, Cameroon*, Canada, Chad*, Ecuador, Kazakhstan*
Rio Tinto^+#	19	Brazil, Chile, Colombia**, Indonesia, Malaysia, Mozambique*, Paraguay
Vale^+ #	19	Brazil, Mozambique*, Peru*, Philippines**
Anglo Gold Ashanti^+#	15	Colombia**
Exxon Mobil Corporation^#	14	Angola, Cameroon*, Canada, Chad*, Guinea*, Kazakhstan*, Nigeria*, Papua New Guinea**,
BHP Billiton^+#	13	Botswana, Brazil, Chile, Colombia**, Peru, Philippines**
Barrick Gold Corporation^+#	12	Argentina, Chile, Peru, Philippines**, Tanzania*,
Glencore^+#	10	Argentina, Colombia**, Democratic Republic of Congo*, Peru, Philippines, South Africa
Anglo American^+#	9	Chile, Colombia**, Peru

Source (EJOLT, 2015).

^ Member of the Extractive Industries Transparency Initiative Standard
+ Signatory to the United Nations Global Compact
# Signatory to the Voluntary Principles on Security and Human Rights
* Compliant with Extractive Industries Transparency Initiative Standard
** Implementing but not yet compliant with Extractive Industries Transparency Initiative Standard.

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Table 2. Transnational Political CSR and Translocal Governance

	Transnational Political CSR	**Translocal Governance**
Normative goal	Consensus	Self-determination; coexistence; autonomy
Main political actor	State, civil society organizations and corporations	State, community councils
Authority	State, MSIs	State and community councils
Preferred economic outcomes	Compensation, royalties	Community driven partnerships, rights to livelihood
Preferred negotiating outcomes	Consensus	Consensus and dissent; veto rights over developmental projects
Sources of political rights & identity	Universal human rights, citizen of nation state, global civil society	Indigenous rights Ecological nationalisms
Source of legitimacy	Transactional: quality of communicative processes; voluntary standards	Indigenous ecology; livelihoods
Nature of representation	Represented by NGOs to information-gathering & rule-making bodies, as well as to media	Initiating partner of governance bodies, with full, direct participation.
Ideologies	Social inclusion	Social justice
Possible outcomes	Hegemonic accommodation	Disruption; dissent
Property rights	Liberal private property regimes; bundle of property rights	Communal property; bundle of relationships
Political networks	Hierarchical (with lateral features)	Lateral (with hierarchical features)
Temporality	Linear and progressive	Juxtaposed temporalities.

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