



Original Article

Private and civil society governors of mercury pollution from artisanal and small-scale gold mining: A network analytic approach



Kristin Sippl*

Department of Political Science, Boston University, 232 Bay State Road, Boston, MA 02215, United States

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ABSTRACT

Artisanal and small-scale gold mining (ASGM) is both a subsistence livelihood for millions of people and the leading source of mercury pollution globally. The United Nation's 2013 Minamata Convention on Mercury aims to address this challenge, but such public regulatory initiatives often struggle with effectiveness. This article explores what private and civil society actors can do to support or complement the Minamata Convention and reform ASGM more generally. Accordingly, it asks three questions: which private and civil society actors are advocating for improved governance of mercury and gold, what methods are they using, and what further research is needed to understand their current and potential governance contributions? To answer these questions, the article uses a transnational advocacy network framework to analyze original data compiled via hyperlink analysis, reviews of regulatory texts, and attendance at the Minamata Convention negotiations. The article finds significant differences between the types of actors comprising each advocacy network, and provides case studies of the leading private and civil actors that lobby, partner with, and bypass public actors to achieve their advocacy goals. Acknowledging the difficulty of governing global supply chains, the paper concludes by identifying four areas of future research needed to help governors achieve their potential.

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1. Introduction

Jewelry is one of humanity's most beloved but problematic areas of consumption. While the exchange of precious metals is central to many cultural rituals, their production often wreaks havoc on social and environmental systems (Ali, 2009; Bloomfield, 2014a; Hilson, 2014). This situation is exacerbated in the realm of gold mining, in which 48% of mined ore serves the jewelry industry (World Gold Council, 2014). It is worst at the level of artisanal and small-scale gold mining (ASGM), in which men, women and children mine, often informally or illegally, to earn subsistence livelihoods (Hilson and McQuilken, 2014; Spiegel and Veiga, 2010). Because these miners often use a production process known as mercury amalgamation, ASGM is now the leading source of mercury pollution globally (UNEP, 2013). Miners use mercury amalgamation because it is often the cheapest and easiest way to mine gold, there are few alternative livelihoods available, and they are seldom aware of mercury's dangers or how to mitigate them (Siegel and Veiga, 2010; Sippl and Selin, 2012; Veiga et al., 2014).

Mercury harms the health of miners and local inhabitants who inadvertently inhale the vapor during amalgamation, and harms the health of seafood consumers globally as mercury travels long atmospheric distances, deposits in waterways, and bio-accumulates in aquatic food chains (N.E. Selin, 2014; UNEP, 2013).

The international community recognizes the transnational causes and consequences of mercury pollution and adopted the United Nations Minamata Convention on Mercury in October 2013. Today, roughly a year after adoption, the treaty enjoys signatures from 128 countries and ratification by 9. Article 7 and Annex C of the treaty address the problem of mercury emissions from ASGM directly, while its articles on trade, finance, capacity building and technology transfer address the sector indirectly. Parties with ASGM within their borders must "take steps to reduce, and where feasible eliminate, the use of mercury. . . and the emissions and releases to the environment of mercury from such mining and processing" (Minamata Convention, 2014). Further, parties with "more than insignificant" amounts of ASGM within their borders must draft National Action Plans (NAPs), which detail the steps they will take to reform the sector and mitigate its harm (Minamata Convention, 2014).

Unfortunately, such global public policies tend to struggle with effectiveness. Sometimes this is due to weak or vague treaty language, which is often required to gain consensus among states

* Tel.: +1 312 371 7241.

E-mail address: ksippl@bu.edu

with varying interests. Other times it is due to the “implementation gap,” a phenomenon in which parties to the treaty lack either the will or capacity to comply with its stipulations (Selin, 2012; Templeton and Kohler, 2014). While the Minamata Convention is clearly a significant political achievement (H. Selin, 2014), it may fall prey to the implementation gap since ASGM mainly occurs in developing countries with weak state capacity and interests in opposition to ASGM reform. Many parties to the treaty have ASGM regulations in place but lack the will or ability to enforce them (Siegel and Veiga, 2009). Therefore it is not clear that the Minamata Convention’s stipulation to create National Action Plans composed of more laws and protocols will change conditions on the ground, since states are not implementing the rules already in place.

This capacity gap could be closed with treaty-affiliated assistance in the form of money, training, or technology transfers, but all such funding mechanisms in the Minamata Convention are voluntary, making the adequacy of such flows uncertain. Further, even if funding for ASGM reform materializes, the treaty does little to address deficiencies of will. Mineral-rich developing countries have incentives to cater to large-scale mining firms that currently pay governments larger amounts of taxes and royalties than small-scale operations do. Since large and small-scale miners often compete for the same plots of gold-laden land, large scale firms lobby governments to outlaw small-scale mining or only allow it on subpar land. This is the opposite approach that is called for in the treaty, which recognizes ASGM as a subsistence livelihood that will only shift to the black-market if suppressed.

This situation—in which the burden of reducing mercury from ASGM falls on the actors least willing and able to manage it—raises the question of what private and civil society actors can do to support or complement the Minamata Convention and reform ASGM more generally. Accordingly, this article asks three questions. First, which private and civil society actors are advocating for improved governance of mercury and gold? Second, what methods are they using to reform ASGM? Third, what further research is needed to understand their current and potential contributions to the governance of global supply chains?

To answer these questions, the article uses a transnational advocacy network (TAN) framework to analyze original data compiled via observations and interviews at the fourth International Negotiating Conference of the Minamata Convention (INC4), hyperlink analysis of advocacy websites, and a review of regulatory texts. TANs are groups of public, private, civil society and hybrid actors working independently from states to achieve shared public goals (Keck and Sikkink, 1998). TAN research focuses on the socio-political connections between advocates and the processes through which they construct and disseminate policy ideas in order to shape global governors’ preferences and behavior (Bob, 2005, 2009; Carpenter, 2014; Finnemore, 2014; Schmidt, 2008).

The article proceeds in three parts. Part 1 presents the actors comprising the TANs promoting increased gold and mercury governance. It finds significant differences in the composition of these TANs regarding the balance of public, private and civil society actors, as well as similarities between them in the form of the same actors appearing in multiple TANs. Part 2 presents three methods being used by private and civil society actors to reduce mercury pollution from ASGM—lobbying public actors, partnering with public actors, and bypassing public actors—and provides case studies of each. Part 3 assesses the functionality of the current system, and identifies promising avenues for future research. Overall, the article argues that both private and civil society actors are currently making critical contributions to a portfolio approach to jewelry industry governance, but that more research is needed to evaluate and facilitate their long-term contributions.

2. Global governance and transnational advocacy networks

Political science has historically taken the state as its unit of analysis, but over the course of several decades, a steady shift in focus from *governments* to *governance* has taken place (Finnemore, 2014; Rosenau, 1995). Research on governance considers a plurality of actors (state and non-state), sources of authority (public, private and civil society) and forms of organization (hierarchical, horizontal, networked) as equally important to explaining modern arrays of political phenomena (Dingwerth and Pattberg, 2006; Weiss, 2000). This shift in focus is particularly apparent in the international relations literature, which now regularly includes research about transnational actors that derive their authority from private and civil society sources (Auld and Gulbrandsen, 2013; Avant et al., 2010; Buthe and Mattli, 2011; Green, 2013; Hall and Biersteker, 2002).

The role of civil society actors in global governance is well documented (Bloomfield, 2014b; Bob, 2005, 2009, 2012; Florini, 2000; Hafner-Burton, 2008; Prakash and Gugerty, 2010; Price, 2003; Ron et al., 2005), and the role of private actors is the subject of a growing literature on corporate social responsibility (Crane, 2008; Dashwood, 2012; Moon et al., 2011; Porter and Kramer, 2011; Vogel, 2006). When an actor of any type selects specific industries, products, issues, or other actors to target by means of public awareness raising, ‘naming and shaming,’ or regulatory campaigns, they are engaging in transnational advocacy, a powerful form of global governance. When these actors intentionally create relationships to increase their moral, material, or intellectual leverage against targets, they are creating transnational advocacy networks (TANs) (Carpenter, 2007, 2011, 2014; Keck and Sikkink, 1998; Kahler, 2009; Sabatier and Jenkins-Smith, 1993; Tarrow, 2005; Ward et al., 2011; Weible et al., 2011; Wong, 2008).

Since Keck and Sikkink’s (1998) foundational study which defined TANs as “groups of actors working internationally on an issue who are bound together by shared values, a common discourse, and dense exchanges of information and services” (p. 89), scholars have worked to deconstruct the concept to gain a more nuanced understanding of network composition and the power dynamics and ideational cleavages that often exist within TANs (Bob, 2005, 2009, 2012; Carpenter, 2007, 2011, 2014; Hafner-Burton et al., 2009; Kahler, 2009; Ward et al., 2011; Wong, 2008). In revising criteria for network membership, scholars are questioning the strength and nature of relationships between actors and the degree of shared values that should be required. How small and isolationist can an actor be while still being considered a network member? If two organizations advocate for increased governance of ASGM, but differ in their preference for public versus private policy approaches, should they be considered members of the same network and coded as having shared values? In revising assumptions about the non-hierarchical nature of TANs, scholars are questioning what should constitute network leadership. Do power hierarchies exist, and if so, are leaders defined by financial, social, or other measures of power?

Research on these questions typically begins by studying the “links between nodes,” where “nodes” are actors such as individuals, states, or organizations, and “links” are the forms of connection between them, such as friendships, citations, or trade agreements. Links act as channels through which material and non-material resources such as money or norms flow, and therefore constitute meaningful structures that define, enable, and constrain node behavior (Hafner-Burton et al., 2009; Ward et al., 2011; Carpenter, 2014). The direction and reciprocity of links coupled with the identity of the nodes can reveal meaningful patterns yielding important insights about network composition and behavior.

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