Resources Policy 38 (2013) 648–656

Contents lists available at ScienceDirect

Resources Policy

journal homepage: www.elsevier.com/locate/resourpol

"Horizontal" and "vertical" diffusion: The cumulative influence of Impact and Benefit Agreements (IBAs) on mining policy-production in New Caledonia

Pierre-Yves Le Meur [a,*], Leah S. Horowitz [b], Thierry Mennesson [c]

[a] Research Institute for Development (IRD), Research Unit Governance, Risk, Environment, Development, New Caledonia
[b] Hawai'i Pacific University, Global Leadership and Sustainable Development Program, USA
[c] Executive director of the semi-public company Mwe Ara, New Caledonia

ARTICLE INFO

Article history:
Received 23 May 2012
Received in revised form
27 February 2013
Accepted 28 February 2013
Available online 29 March 2013

JEL classification:
D7
D74
F6
M14
P16
Q3
Z1

Keywords:
Decolonization
Indigenous rights
New Caledonia
Resource politics
State-making
Cumulative impacts

ABSTRACT

The scale, duration and intensity of conflicts over mineral resources vary greatly. However, they always involve, in varying proportions, the triad stakeholder model—corporation, state, community—each element of which is internally heterogeneous. Increasingly, new players are entering the scene: international non-governmental organizations (NGOs), environmental grassroots groups, indigenous transnational networks, international aid and development agencies. Nevertheless, conflicts and arrangements around access to and control over mineral resources can take the apparent form of dyadic relationships between companies and local communities, resulting in negotiated company-community agreements, often called "Impact and Benefit Agreements" (IBAs). In our analysis, local agreements on mineral resource governance are seen as building blocks in the production of mining policy "from below", even though they seem at first sight to exclude the state. This paper argues that these agreements, and the negotiations surrounding them, inform debates around mining through both "horizontal diffusion" (influence on other localities facing similar situations) and "vertical diffusion" (influence on policy design and implementation at upper political and administrative levels). This diffusion may occur in a "positive" sense, effecting further change in line with the intent of the original agreement, or in a "negative" one, actually making substantive change *less* likely, whether at a community or policy level. We build this argument through two case studies from New Caledonia, in the south-west Pacific, where mining has long been a key issue, especially in the current context of "negotiated decolonization" launched by the 1998 Nouméa Accord.

Introduction

The scale, duration and intensity of conflicts over mineral resources vary greatly, from localized and quickly circumscribed disputes to large-scale human rights violations and civil wars (Filer, 1990; Ballard, 2001; Ballard and Banks, 2003; Leith, 2002; Banks, 2008). However, these conflicts always involve, in varying proportions, the triad stakeholder model—corporation, state, community—each element of which is internally heterogeneous. Moreover, other players may enter the game, such as international non-governmental organizations (NGOs), environmental grassroots groups, indigenous transnational networks, international aid and development agencies, and so on. Against this background, we focus here on conflicts and arrangements around the access and control over mineral resources that at least putatively take the form of dyadic relationships between companies and local communities, thus downplaying the role of the state in its different manifestations. In particular, we discuss negotiated company–community agreements, often called "Impact and Benefit Agreements" (IBAs). IBAs are a type of contract through which community representatives provide documented support for a project in exchange for specified benefits, which may include direct payments, employment opportunities, the protection of particular landscapes or resources, and/or a greater role in impact monitoring. While still far from universally applied, IBAs have become more and more common means of ending company–community conflicts over the past two decades, in both developed and, increasingly, developing countries (O'Faircheallaigh, 2008a).

How should one interpret these agreements? Several interpretations have been proposed, none necessarily exclusive of the others. Agreements negotiated between mining companies and local community representatives are part of the Corporate Social Responsibility (CSR) toolbox (O'Faircheallaigh, 2008a) and can thus be seen as a neoliberal strategy aimed at "green-washing"

* Corresponding author. Tel.: +687 26 08 03; fax: +687 26 43 26.
E-mail addresses: pierre-yves.lemeur@ird.fr (P.-Y. Le Meur), lhorowitz@hpu.edu (L.S. Horowitz), t.mennesson@deva.nc (T. Mennesson).

0301-4207/$ - see front matter © 2013 Elsevier Ltd. All rights reserved.
http://dx.doi.org/10.1016/j.resourpol.2013.02.004

capital, i.e., wrapping the inherently unsustainable nature of mining extraction in the rhetoric of sustainable development. In this respect, CSR is one dimension of the "new spirit of capitalism" identified by Boltanski and Chiapello (1999); in the 1990s, capitalism's ability to integrate its own critics took the form of an emphasis on networks, projects and mobility, replacing the 1960s model of the vertically integrated firm. As a continuation of this process, CSR addresses environmental and social issues such as sustainability, ethics and the common good (see Kazmi et al., 2008). Within this frame of interpretation, one can also see IBAs and more broadly CSR apparatuses as instruments of self-regulation forged by the globalized mining sector, or at least its biggest players (Filer et al., 2008), in order to protect itself from national states' and international agencies' regulatory intrusions. Both interpretations raise questions about the actual role and regulatory capacities of the state, let alone its very existence as a discrete entity (Abrams, 1988; Lund, 2006; Blundo and Le Meur, 2009). A third line of reasoning highlights the relative autonomy of local arenas and the agency of local actors, whatever the unevenness of the power dynamics organizing mining relationships. In this analysis, local agreements on mineral resource governance can be seen as building blocks in the production of mining policy "from below", even though they seem at first sight to exclude the state. In respect to these three layers of interpretation, risk management represents an often cited driver for negotiating these agreements. It is actually a crosscutting and contested issue as risk is viewed differently depending on the stakeholders' viewpoints. From the company's perspective, IBAs can help to reduce multiple risks simultaneously: risks from government, such as the imposition of more stringent regulations, as well as risks from civil society that could result in project delays, costly litigation, and reputational damage (Fidler and Hitch, 2007; O'Faircheallaigh, 2011). Communities, meanwhile, hope that the content of the agreements will help to reduce risks stemming from the "adverse socio-economic and biophysical effects of rapid resource development" (Fidler and Hitch, 2007: 50).

The fact that IBAs are normally bilateral and very often confidential (Fidler and Hitch, 2007: 60; O'Faircheallaigh, 2008b), would appear to inhibit their influence on policy production. However, there is a countervailing tendency: a drive to escape from narrowly bilateral negotiations and to make them as public as possible, as we explore below (compare Filer, 2008 on development forums in Papua New Guinea).

Thus, this paper will argue that these agreements, and the negotiations surrounding them, inform debates around mining through both what we term "horizontal diffusion" (influence on other localities facing similar situations) and "vertical diffusion" (influence on policy design and implementation at upper political and administrative levels). This diffusion may occur in a "positive" or productive sense, effecting further change in line with the intent of the original agreement and thus creating new room for manoeuvre for local actors, or in a "negative" or repressive one, actually making substantive change *less* likely, whether at a community or policy level, and thus restraining actors' action space.

Diffusion, power, and the mining industry

Contemporary reconfigurations of power involve a "hollowing out" of the nation–state (Rhodes, 1994). Increased international flows of knowledge, information, and influence have shifted power away from states, both "upward" to the international level of multinational corporations and the transnational activist networks resisting their activities (Ferguson and Gupta, 2002; Keck and Sikkink, 1998) and "downward" to local citizens' groups, through a process labeled "glocalization" (Swyngedouw, 1997). This results in new, cross-scalar, "networked" or "hybrid" governance arrangements (Harrington et al., 2008: 201; Boege and Franks, 2012). CSR, and specifically IBAs, are enabled by and in turn reinforce this trend by supporting a neoliberal agenda that, at least putatively, excludes formal government structures. However, if local agreements and CSR discursive practices can be seen as part of a global neoliberal agenda, vertical diffusion processes toward state authorities potentially pertain to a governmental project of local anchoring and influence subject-making processes (see Agrawal, 2005; Dean, 2010). In the same Foucaldian vein, we can identify a strong analogy between the "positive" and "negative" forms of diffusion and the "productive" (freedom) and "negative" (domination, repression) sides of power. In other words, diffusion is not conceived as a mere communicational process but as power-laden, infused with asymmetrical relations and strategic intentions.

Meanwhile, other factors also work against the regulation of mining activities. The mining sector is organized through the circulation and transformation of different items: ore, of course; mining revenues (as compensation, royalties, development aid, taxes, etc.); but also policy models (as regulatory and legitimizing tools) and knowledge about mining impacts and policies. Filer (2011) rightly stresses the disconnected or fragmentary nature of mining knowledge systems, along various lines: temporal (staff turnover), vertical (corporate headquarters versus project site) and horizontal (core mining activities versus social/environmental externalities). Mining policy is similarly ridden with fragmentation and disconnection. This fact influences the way mining is exercised as a more or less regulated activity, in terms of both the revenue and the damage that it generates.[1]

This paper argues that diffusion processes transform the power dynamics of company–community–state relationships, potentially empowering communities, facilitating company–community engagements, yet also resulting in a greater regulatory role for formal governance structures. We build our argument through two case studies from New Caledonia, in the south-west Pacific, where mining has long been a key issue, especially in the current context of "negotiated decolonization" launched by the 1998 Nouméa Accord (see below). The department in charge of mining and energy for New Caledonia (DIMENC) elaborated a mining code (*Schéma d'aménagement minier*) in 2009 and a Strategic Industrial Committee (*Comité stratégique industriel*) was created in 2010. Meanwhile, mining projects (including both nickel extraction and processing) are booming and with them localized conflicts, negotiations and agreements. These localized processes which affect large-scale multinational mining projects (SMSP-Xstrata in the north, the Brazilian multinational Vale in the south, the French company SLN at various sites), will be the focus of this article. We understand them as structuring elements of mining policy production in New Caledonia.

We discuss the two case studies, outlining the sequence of events from which these agreements result and describing the arena produced by these interactions in order to show how they influence policy making as well as other company–community interactions. The two case studies are situated and enriched by the brief presentation of similar cases. Before entering into the detail of the case studies, we outline the New Caledonian context as regards mining and mining policy and locate the issue of local agreements within the broader frame of Corporate Social Responsibility, mining governance, and the policy process.[2]

[1] Furthermore, policy and knowledge disconnections—and the way IBAs contribute to these processes—relate to the broader issue of the linkage between public participation, policy making and impact assessment (Fidler and Hitch, 2007; O'Faircheallaigh, 2008b, 2010; Franks et al., 2010).

[2] The results presented in this article are part of a research programme on "The politics of nickel between local and corporate governance in New Caledonia" funded by CNRT "Nickel and its environment"