The Extractive Industries and Society 1 (2014) 216–224

Contents lists available at ScienceDirect

The Extractive Industries and Society

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

Original Article

Gold mining in sub-Saharan Africa: Towards private sector governance

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ARTICLE INFO

Article history:
Received 17 May 2014
Received in revised form 17 July 2014
Available online 10 August 2014

Keywords:
Private governance
Gold mining
Africa
Private authority
Globalisation

ABSTRACT

Global mining firms are taking a leading role in the governance of sub-Saharan Africa's gold mining industries. No longer are states seen as the sole source of authority and governance; non-state actors such as firms and industry organisations are contributing to the regulation of the sector through private governance initiatives. This paper highlights the role firms play in governing the gold mining sector using primary evidence gathered through analysis of firms' annual reporting. Reports were analysed to highlight the differences between firms' key rationales for participating in private governance initiatives. Through this analysis it is shown that gold mining firms with broad geographical footprints engage with private governance in order to simplify their compliance burden. Smaller firms are more likely to cite normative reasons for supporting private governance regimes, including a desire to appease stakeholders and communities. The theoretical and empirical evidence presented suggests large, multi-national mining firms are more likely to develop and engage with private governance initiatives, doing so in order to determine the regulatory structure of their industry. These findings present a potential future research agenda, allowing for a greater understanding of why firms engender private governance.

1. Introduction

Gold mining firms operating in sub-Saharan Africa are co-governors of their industry. They share sovereignty with the state and possess the authority to set standards and regulations that are accepted as legitimate by other actors. This depiction of firms, as legitimate governors, is relatively new and reflects the emergence of the literature on globalisation and governance. The earliest scholars of globalisation predicted the ease by which capital and labour would be able to move cross-border would further augment the power of firms that had already been afforded much greater command due to the acceptance of the capitalist norm of profitability (Lindblom, 1977; Strange, 1996). For such scholars, globalisation would usher in 'a borderless' world where people, capital, industry and information would flow freely between states (Ohmae, 1999). With states no longer able to assert themselves in the face of global capital a 'race to the bottom' (where countries compete by offering the lowest levels of regulation and standards in order to attract capital) was predicted (Donahue, 1994). However, scholars such as Hay and Marsh (2000), Weiss (2003) and Bell and Hindmoor (2009) suggest that there is little empirical evidence to support this concept, and that which is presented is often mis-used. For transformationalist scholars of globalisation, such as Held (1999) and Mikler (2011), states remain legally sovereign. But their power and authority is being reconstituted by non-territorial organisations such as multi-national corporations.

This reconstitution of power is evident in sub-Saharan Africa's gold mining sector. Multinational gold mining firms operating on the continent are contributing to the form and structure of industry regulation (Elbra, 2014). In particular, gold mining firms with significant private authority are able to develop and promote private governance as a solution to challenges facing the their operations. These firms have developed and adopted a large number of private governance initiatives to help regulate the sector including cross industry bodies such as the World Gold Council and multi-stakeholder initiatives such as the Voluntary Principles on Security and Human Rights.

While the development and promotion of private governance is evident, it is unclear why mining firms would seek to implement rules and regulations beyond what is required by host states. This is of particular interest in states where governance of the extractives sector is weak. This paper examines the specific motivations driving multinational gold mining firms operating in

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http://dx.doi.org/10.1016/j.exis.2014.07.008
2214-790X/

sub-Saharan Africa's three largest gold producers, South Africa, Ghana and Tanzania. Through an examination of these companies' annual reporting, this paper seeks to examine why mining firms develop and implement their own forms of governance, often in the face of weak state regulation. In doing so, it is shown that firms with broader geographical footprints are more likely to see private governance as a strategic tool by which they can control the governance of their industry. Contrarily, smaller firms, operating in fewer countries are more likely to utilise private governance to strengthen their relationships with host states and local communities. These firms are less interested in controlling the direction of industry governance.

The paper is organised as follows. Firstly the private authority and private governance literature is introduced, outlining how sovereignty is shared between firms and the state. Secondly, the literature on firms' rationales for developing and promoting private governance initiatives is outlined. Thirdly, private governance initiatives in the gold mining industries of sub-Saharan Africa are explored. Lastly, the firms' reports are analysed to elucidate the motivations for participation in private governance initiatives. It is demonstrated that private governance regimes emerge where governments are unwilling or unable to regulate and where firms perceive a link between social responsibility and profit. Furthermore, it is shown that multi-national gold mining firms pursue sustainable business practices and self-regulate in order to simplify their compliance burden. Smaller firms are more likely to cite normative reasons for supporting private governance regimes, including a desire to appease stakeholders and communities in their country of operation.

2. Firms as governors

It is no longer accepted that states are the sole source of governance. The international relations literature is increasingly acknowledging the role of firms in developing, and promoting, rules and regulations that govern their industries. This acknowledgement has been linked to attempts to understand the role of firms and states in a globalised world where firms' power is said to be growing. In fact, some political economists have gone so far as to say the period of globalisation would herald the retreat of the state, leaving a "yawning hole of ungovernance" (Strange, 1996, p. 14). While acknowledging the relevance of these views, this paper instead takes a more moderate view of globalisation, accepting the transformationalist viewpoint which argues that states are not necessarily retreating, or dying but are rather sharing authority with non-state actors such as firms (Held, 1999). This is evidenced by the widespread acceptance of the neoliberal norms of capital and profit that have afforded a greater amount of power to firms, which are able to exercise structural and discursive power over states in order to set their own standards and regulations (Fuchs, 2007).

The standards developed by firms go beyond self-regulation. Firms with significant legitimacy are able to influence standards of behaviour for the remainder of their industry, developing what is referred to as private authority. Firms with sufficient private authority are recognised as legitimate "authors of policies, of practices, of rules, and of norms" (Hall, 2005). They possess "decision-making power over an issue area that is generally regarded as legitimate by participants" (Cutler et al., 1999, p. 362). Private authority reflects the ability of business to "perform the role of authorship over some important issue or domain" due to the knowledge, expertise and representational skills afforded to firms (Cutler et al., 1999; Hall and Biersteker, 2002, p. 4). These firms are able to set rules and regulations that are adopted by others in the industry, and even by governments themselves. When private authority is effective, these other actors accept the decisions being made by companies as legitimate and representative of those in power (Cutler et al., 1999).

Non-state actors who possess private authority frequently implement rules and regulations that govern their sector. When other actors repeatedly interact and behave according to these rules firms are said to have developed private governance whereby "individual actors do not constantly decide to be bound by the institutional norms based on a calculation of their interest, but adjust their behaviour out of recognition of the legitimacy of the governance system" (Falkner, 2003, p. 73). These governance systems or private governance regimes can be defined as "institutionalised manifestations of private authority" (Cutler, 2002, p. 23).

The emergence of rules and regulations, not developed by the state, raises questions about state sovereignty. Hall and Biersteker (2002) note that sovereignty has both internal and external components, where external sovereignty refers to acknowledgement that states are the sole source of authority. The advancement of private governance challenges states' external sovereignty through the introduction of another recognised source of rule-making, whereby the state is no longer the predominant location of authority (Biersteker, 2002). This paper utilises Hall and Biersteker's (2002) definition of sovereignty throughout, arguing that firms' ability to regulate their industry represents a threat to state sovereignty.

Despite the common perception that firms wish to avoid regulation, the private authority scholarship demonstrates that firms are willing to self-regulate, create industry associations and join multi-stakeholder initiatives in order to participate in industry governance. However, the question remains as to *why* firms are willing to implement their own rules in the absence of government regulations. The next section explores the literature on firms' motivations for developing private governance.

3. Why do firms develop private governance?

Private governance is pursued to both reduce firms' risks and enhance their reputation (Haufler, 2001, p. 20). Firms are motivated to participate in private governance through strategic factors such as the minimisation of risk, enhancement of profitability, a response to tougher regulatory regimes and the maintenance of a social license to operate. The normative factors that drive firms' engagement with private governance include an obligation to the local community or stakeholders, a moral imperative and a commitment to best practice. A brief overview of the literature, employing the sub-categories of strategic and normative factors, is provided below.

3.1. Strategic rationales

Risks to gold mining firms include those that arise from operating in conflict zones or disputed territories, risk from breaching regulation either in the company's home country or country of operation as well as the risk of transnational activist pressure (Haufler, 2001). Hard rock mining, including gold mining, is also extremely damaging to the environment and is often detrimental to communities living around mine sites. The requirement that minerals must be extracted where they are found, labelled by economists as 'asset specificity', enhances many of these risks. In his seminal work, Williamson (1975) argues that firm specific-assets, or those with high asset specificity, cannot be costlessly redeployed to other uses. High asset specificity has necessitated gold mining firms acquiring and maintaining a social licence to operate in the communities in which they work, due to their inability to relocate productive assets in the case of community dis-satisfaction (Dashwood, 2007). As Dashwood