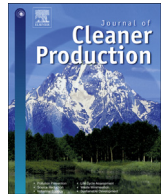




Contents lists available at ScienceDirect

Journal of Cleaner Production

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

A normative-empirical analysis of state duties and corporate responsibilities related to adverse human rights impacts on the Amazonian minerals-energy frontier

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ARTICLE INFO

Article history:

Received 16 July 2013

Received in revised form

13 February 2014

Accepted 19 February 2014

Available online xxx

Keywords:

Minerals-energy complex

UN Guiding Principles

Corporate accountability

CSR

Amazon

Hydroelectricity

ABSTRACT

The article probes the existence of a ‘minerals-energy complex’ (MEC), a concept developed in South Africa, to describe the strong interlinkages between the mining and energy sector in the Brazilian Amazon. Within the framework of the MEC, the authors conduct a normative analysis – based on the United Nations Guiding Principles for Business and Human Rights (UNGPs) – of the state duties and corporate responsibilities for adverse human rights impacts in the complex. The authors use a single, in-depth case study approach, focussing on the case of the Belo Monte hydroelectric dam in the Amazonian state of Pará. The MEC proves to be a useful framework for studying the advancement of hydroelectricity and mining projects on the Amazonian frontier. The analysis indicates that the Brazilian minerals and energy sectors are mutually dependent and have overlapping interests and decision-making structures. Applying the MEC framework to the Belo Monte case serves to clarify and detangle the relationships between the various actors associated with the dam’s adverse impacts. This provides a foundation for the normative analysis of the responsibilities and actions required of each actor based on the internationally-accepted standards in the UNGPs. By applying the MEC as an analytical research framework and drawing on the UNGPs for normative guidance, the present study contributes to the academic literature on corporate responsibility, as well as providing policy and decision-makers with a normative-empirical analysis that can be drawn upon to improve policy and ensure that corporate activity contributes to sustainable development.

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1. Introduction

The Amazon – often referred to as one of the world’s final frontiers (Boekhout van Solinge, 2010; Boekhout van Solinge and Kuijpers, 2013; Nepstad et al., 2002) – is currently facing a proliferation in the number and size of operational and planned hydroelectric dams (Da Silva Soito and Vasconcelos Freitas, 2011; Deheza and Ribet, 2012). These dams facilitate the rapid expansion of the energy-intensive mining industry on these frontiers (Barbier, 2012; Bebbington et al., 2013; Urkidi and Walter, 2011). The booms in

both hydroelectric dams and mines, driven by an increase in the global demand for raw materials (McLellan et al., 2012) and increasing scarcity of these resources (Rockström et al., 2009; Yellishetty et al., 2012), have caused and are continuing to cause drastic changes and severe, cumulative environmental and human rights impacts (Breton et al., 2012; Franks et al., 2012).

Brazil’s 2011–2020 Decennial Energy Expansion Plan calls for the construction of 30 hydroelectric dams in the Amazon (EPE, 2011). The governments of Brazil, Ecuador, Peru and Bolivia all emphasise hydropower as the centrepiece of medium and long-term energy plans (Finer and Jenkins, 2012). For these countries, mining is one of the main planks of their economic development policies (Burton, 2012; Seoane et al., 2005). The value of annual mineral production in the Amazonian state of Pará (Brazil) nearly tripled between 2007 and 2011, and it is expected to triple again – reaching a total of US\$ 20 billion – by 2015 (DNPM, 2012; IBRAM, 2013).

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Many of these new energy and mining projects are located on so-called 'frontiers' – areas that are recently being disclosed for resource exploitation (Rivero and Cooney Seisdedos, 2010). Frontier projects are frequently characterised by adverse human rights impacts, as traditional land uses and sources of livelihood are displaced by modern industrial development (Peluso and Lund, 2011; Langfur, 2006). Furthermore, developments on the frontier often advance so rapidly that the enforcement of laws and regulations cannot keep up, resulting in weak government control over the expansion.

Indeed, the Amazonian frontier regions have already seen a number of adverse human rights impacts – particularly related to displacement; the right to free, prior and informed consent (FPIC); and access to natural resources – associated with both the hydroelectricity and mining sectors (Alston et al., 1999; Carvalho et al., 2002; Carvalho, 2006; Fearnside, 2006). Furthermore, a number of the existing and planned mining and dam sites are located on or close to indigenous territories, raising the risk of violating the special rights of Indigenous Peoples enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UN, 2008) and the International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples (ILO, 1989).

Governments and multinational energy companies frequently stress the positive developmental contribution of hydroelectric dams, which they claim will create jobs and spur electrification (Galindo da Fonseca and Bourgoignie, 2011; Norte Energia, 2011). However, the positive developmental impacts of Amazonian electricity projects are debatable as a significant amount of the generated energy is destined for supplying industrial mining activities rather than expanding access to affordable electric services (Fearnside, 2006; Wilde-Ramsing, 2013). Indeed, research has revealed that the electricity and mining sectors are strongly interlinked, both in their business relationships as well as at the organisational level (Fearnside et al., 2013; McLellan et al., 2012). Fine and Rustomjee (1996) have observed and described a 'minerals-energy complex' (MEC) that provides a structural framework for investigating these sectoral interlinkages. The MEC comprises a system of accumulation of resources and capital concentrated around the minerals and energy sectors.

Although the MEC concept was developed in the South African context, the present study demonstrates that it provides a useful, systematic framework for conducting a holistic analysis of the interconnected political and economic interests and power dynamics between the mining and energy sectors in other emerging economies. Furthermore, the strong relationships between the two sectors raise profound questions about the division of responsibilities for adverse human rights impacts. For example, what responsibility do mining companies have to prevent or mitigate human rights abuses linked to the hydroelectric dams that they rely on for massive amounts of electricity and without which they could not operate? Do state-owned energy and financial enterprises have a heightened responsibility to protect human rights in this complex? The United Nations Guiding Principles for Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011, provide a framework for analysing the duties and responsibilities of state and business actors in addressing business-related human rights abuses.

The present study employs both the MEC and the UNGPs as complementary frameworks to analyse the interests and power relations between the hydroelectricity and mining sectors in one specific case – that of the Belo Monte hydroelectric dam in the Brazilian Amazon. The holistic framing of the MEC allows the authors to develop a comprehensive sketch of the relationships between the various sectors and actors. The dissected web of relationships provides a foundation for applying the UNGPs to

identify the respective responsibilities for adverse human rights impacts. This exercise contributes to the academic debate surrounding the emerging normative shift from corporate social responsibility to corporate accountability and its consequences for corporate behaviour (Bendell, 2004; Clapp, 2005; Valor, 2005). Furthermore, the study seeks to produce strategic knowledge that can contribute to the development of sustainable systems of energy provision and natural resource management around the world.

2. Analytical approach

The present article relies on established, internationally accepted normative standards (the UNGPs) as a benchmark for making a 'normative-empirical' assessment of responsibility for human rights impacts within the minerals-energy complex. The normative-empirical approach – most explicitly outlined by Lafferty (2002) – is firmly and necessarily situated within the applied-science realm. The normative-empirical analytic approach systematically builds knowledge that can play "a pragmatic role in helping to inform policy decisions" (Stufflebeam, 1980) and that can thus be used to promote sustainable and equitable energy and natural resource management systems (Wilde-Ramsing, 2013).

The authors have chosen to build the normative analysis upon the UNGPs, as these are one of the most authoritative and inclusive normative frameworks on business responsibilities for human rights (Aarons and Higham, 2013; Frankental, 2012; Kemp and Vanclay, 2013; Lindsay et al., 2013). The UNGPs were unanimously endorsed by the UN Human Rights Council in 2011, after a six-year mandate of the United Nations Secretary-General's Special Representative for Business and Human Rights that included extensive multi-stakeholder consultations (UNOHCHR, 2011).

The present study applies the UNGPs to a specific case of business-related human rights abuse to determine the duties of the state and responsibilities of companies involved to protect and respect the human rights of the affected rights-holders. A first step in making this assessment is to identify the range of state and business actors involved, using the MEC as a lens. After determining which actors are causing, contributing to and directly linked to the impact, the actions required of each can be analysed.

2.1. The minerals-energy complex

As described by Fine (2012) and Fine and Rustomjee (1998, 1996), the minerals-energy complex is a core set of minerals and energy sectors that exhibit exceptionally strong and mutually beneficial linkages between one another and weaker linkages with other sectors. The sectors have interpenetrating directorships and shareholders and strong linkages with financial institutions (Fine and Rustomjee, 1998, 1996). State actors are involved in and support the energy and mining sectors through the expansion of public-private investments, the creation of state-owned enterprises to operate – often with a dominant market share – in the sectors, and investments in the MEC (Fine and Rustomjee, 1996).

As a system of accumulation, the MEC exhibits a process by which the core set of industries has developed historically and subsequently influenced the development of other industrial sectors (Baloyi, 2012). The MEC lies at the core of many emerging economies, both in terms of weight and impact on the rest of the economy (Fine and Rustomjee, 1996). Conglomerate power over the economy, reinforced through simultaneous control of the financial sector, extends to all activities and sub-sectors within mining, manufacturing and financial activities. As an effect of this system of accumulation, the MEC results in a concentration of capital and resources (Fine and Rustomjee, 1996).

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