The Dynamics of Global Governance Regimes and Mineral Resource Sectors: Insights from Ghana and South Africa

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Prepared for the CPSA Conference Panel C9(b) - Mining and Resource Governance in Africa, Calgary, Alberta, Canada
1 June 2016

Please Note: NOT for citation (though comments and suggestions encouraged, which will be acknowledged once published)

Introduction

Non-state actors such as transnational corporations (TNCs) have become powerful socio-economic agents in international politics. As a result of the growing influence of TNCs and reports of business complicity in human rights abuses, global governance initiatives such as the Voluntary Principles on Security and Human Rights (VPSHR), Extractive Industries Transparency Initiative (EITI) have emerged to promote corporate social responsibility (CSR) (see table 1 on page 14). The most recent global governance initiative that focuses on CSR and human rights is the United Nations Guiding Principles on Business and Human Rights (UNGP), which rests on three principles: the state’s duty to protect against human rights abuses by third parties such as firms; business responsibility to respect human rights; and greater access by victims to effective remedies1 (Ruggie, 2011). The existence of inalienable human rights has been accepted by the 192 member countries of the United Nations (Universal Declaration on Human Rights, 1948); however, despite claims of respecting the Universal Declaration on Human Rights, there are still cases of human rights abuses in the mining sectors of developing countries. Within the business literature, little attention has been paid to the role of emerging global CSR norms, or how they are diffused. In the International Relations (IR) scholarship, the literature is primarily based on empirical analysis at the firm level, often focusing on operations within one national context and neglecting factors that influence variation in CSR implementation across countries (Dashwood, 2007 and 2012; Grant, 2009; Grant et al., 2014; Hilson, 2012).

In this paper, we seek to address the above gap by providing analyses of the influence of these global governance frameworks, specifically focusing on the diffusion of VPSHR and the EITI to local levels. Considering that the UNGP is quite recent and some countries are now

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1 Ruggie (2011).
establishing action plans towards its implementation, the paper will only attempt to describe its potential applicability in the context of Ghana and South Africa. The paper intends to advance the scholarly debate in two main ways. First, it makes a theoretical contribution by merging a Constructivist International Relations approach with an historical institutionalist approach of Comparative Politics, thus integrating insights from International Relations (which tends to focus on international politics) with those from Comparative Politics (which emphasizes the importance of domestic politics in explaining international phenomena) (Caporaso, 1997). The paper fills a major gap in the International Relations literature by refining the theoretical approach of Constructivism to better account for the role of non-state actors in disseminating global norms. These global norms are defined as shared (or inter-subjective) expectations about appropriate behaviours held by a community of actors. As a well-established theoretical approach, Constructivism has been somewhat reluctant to deal with transnational firms in particular, and, as a result, analyses of private business actors are still lacking to some extent. While many scholars have placed much emphasis on processes of bargaining within international regimes and power and coercion of individual states or international organizations to explain how international agendas reach the domestic level, others argue that diffusion also constitutes a distinct mode of global governance, which is useful to explore. One relatively neglected aspect of diffusion remains international norm diffusion, which is central to the Constructivist approach. The paper will use the Constructivist approach to unpack the causal linkages between state and non-state actors in disseminating and implementing global norms that constitute global governance regimes, which helps illuminate the relationship between CSR, transnational mining firms, and state behaviour (Wheeler et al., 2002). From the perspective of Comparative Politics, the paper utilize Hall and Taylors’ (1996) “new institutionalism” as institutional theory is particularly useful for understanding cross-national differences in corporate governance (Aguilera and Jackson, 2003). More specifically, the paper will examine historical institutionalism as it is more appropriate for investigating the emergence of institutions in broad political and social context. This type of institutionalism focuses on path dependency, which consists of both continuity and (structured) change (Thelen, 1999). As such, institutions are conceived in relational terms (Immergut 1992, Katznelson 1997: 104); and institutional arrangements cannot be understood in isolation from the political and social setting in which they are embedded. Ikenberry (1994: 7) fittingly highlights that “historical institutionalism seeks to uncover the historical dynamics that shape and transform the organizational structures of states and society, and the way these structures shape, constrain, inhibit and enable societal government actors”. His characterization takes into consideration the development of critical junctures and developmental pathways which are crucial for understanding how institutions evolve and respond to change but remain constrained by their past trajectories.

Second, the paper provides a detailed analysis of the aforementioned global governance frameworks by examining how they potentially influence corporate and state actors in Ghana and
South Africa. It asserts that in order to assess the extent to which global governance regimes in the mineral resource sectors influence the behaviour of various actors, it is first imperative to critically examine historical contexts with respect to regime type and mining laws. This is essential for understanding critical junctures and current state-business-community relations. We argue that this initial examination is important for promoting a robust level of engagement among various actors as limited knowledge about these initiatives tend to be a major challenge when it comes to implementation in local settings.

Overview of Concepts: Global Governance Regimes, Global Norms, and Institutions

In the 1990s, the term ‘governance’ gained prominence in the lexicon of policy-makers and scholars alike. Finkelstein (1995: 367) appropriately points out that “ambiguity affects not only what is meant by global but also what is meant by governance. While the latter word turns up often in scholarly discourse about how states relate to each other in the international system, little attention has been given to what it means.” We concur with Finkelstein’s (1995) notion that governance does not mean “government”. However, since the international system lacks hierarchy and government, the ambiguous word governance is used instead. Although governance is a contested term, Rosenau (1995: 14), a scholar who contributed to the early development of the concept, argues that it ‘encompasses the activities of governments, but it also includes the many other channels through which “commands” flow in the form of goals framed, directives issued, and policies pursued’. One of the drivers for the term’s ascendancy was the Commission on Global Governance (1995: 2) which advanced the concept of governance as those activities that represent ‘the sum of the many ways individuals and institutions, public and private, manage their common affairs … [and] the continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken’. With these as fundamental pillars, Rosenau (1995: 18) defines global governance as ‘systems of rule at all levels of human activity – from the family to the international organization – in which the pursuit of goals through the exercise of control has transnational repercussions’. Arguably, this characterization of global governance is very broad, making it difficult to point exactly to what constitutes global governance. In other words, Rosenau’s definition could be critiqued for its ambiguity but it is also serves as the foundation for expanding the scope of “control” or “influence” that occur in other levels.

Similar to Rosenau’s conceptualization of governance and global governance, Krasner (2012) posits that international regimes are ‘principles, norms, rules and decision making procedures around which the expectations of authors converge in a particular issue area. These foundational concepts are important for not just examining global governance frameworks at the national level but at regional and local contexts, thus opening the door for bridging the gap between domestic politics and international politics. Additionally, the above characterizations of global governance and regimes point to ‘systems of rule’ or institutions. In this paper, we adopt Douglas North’s (1991: 3) definition of institutions: ‘rules of the game in a society or, more formally, as the human devised constraints that shape human interaction. In consequence, institutions structure

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5 Alorse and colleagues (2015).
incentives in human exchange, whether political, social, or economic’. North (1984: 8) convincingly assert that institutions comprise ‘a set of moral, ethical behavioural norms’, as well as rules and regulations that constrain human behaviour. From an analytical standpoint, recurring themes with respect to governance, global governance regimes, and norms seem to be the pursuit of collaborative objectives with respect to decision-making in institutional settings, implying the “the logic of appropriateness” among various actors. Although institutional structures and rules are relevant for promoting good behaviour or for the provision of “collective goods”, these structures could also hinder or constrain meaningful and decisive action on the part of actors. The analogy we posit here with the restraining and enabling elements of institutions is that of a simple traffic light. For instance, rules of the road require that drivers stop at a red traffic light to allow pedestrians to cross safely. In some cases, there might not be pedestrians at all but one is still required to wait for the appropriate signals in order to make a decision. Failure to do so has consequences. Even though these rules “enable” individuals to follow proper procedures of safety on the road, one is also “constrained” by these rules. Indeed, “institutions are the rules of the game” in society.

Overview of Theoretical Approaches: Constructivism and Historical Institutionalism

Constructivism

Traditional international relations theory assumes that state interests are defined by the structure of the international system. Constructivists understand the international system of states as a social structure, one that is “constructed” by states. Constructivists discount the rationalist assumption that interests are fixed, and look to the role of ideas and norms in shaping interests (Dashwood, 2007). Constructivist approaches draw our attention to evolving social norms at the global (or macro) level, and help to explain the process of norms dissemination at the global level, as well as how norms are internalized at the level of the firm (micro-level). Constructivists question the methodological individualism that underpins both neoliberalism and neorealism. This agent-centered view asserts that all social phenomena are explicable in ways that involve only individual agents and their goals and actions; the starting point of the analysis is actors (states) with given properties. Ontologically, the result is to reduce one unit of analysis -- structures to the other -- agents.6 Also implicit in many constructivist accounts is a model of human and state behavior where rule-governed action and logics of appropriateness prevail. Such logics involve reasoning by analogy and metaphor and are not about ends and means. Under them, agents ask "What kind of situation is this?" and "What should I do now?" -- with norms helping to supply the answers. Norms therefore constitute states/agents, providing them with understandings of their interests.7

As a theoretical approach, Constructivism strives to understand how identities are constructed, what norms and practices accompany their reproduction, and how they construct each

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7 On logics of appropriateness, see March and Olsen (1989).
other (Hopf, 1998). Within the state itself might exist areas of cultural practice, sufficiently empowered through institutionalization and authorization, to exert a constitutive or causative influence on state policy. The state's assumed need to construct a national identity at home to legitimize the state's extractive authority has effects on state identity abroad (Hopf, 1998). Overall, constructivism lends itself to collaboration with other approaches, both within political science and outside.

Hönke and colleagues (2008) assert that from a rational choice standpoint, companies generally choose to engage in self as well as in collective regulation efforts because they are driven by the rationale to reduce actual costs or to avoid future ones. However, from a constructivist perspective, they may do so because it is appropriate to follow a respective norm either with regard to the transnational corporate social responsibility discourse or to social norms at the local level. For transnational corporations in the extractive industry, the pursuit of self-interest is not surprising as their bottom-line is profit maximization with shareholders and investors in mind. From a ‘business case’ perspective, it is important for companies, especially transnational mining firms to gain legitimacy to operate in a particular context. As such, they take the necessary precautions to control risk and manage their reputations. This logic then leads to the question: if risk and reputation management are the key drivers of firm behaviour, to what extent could one argue that global norms play a significant role in influencing the behaviour of firms, especially transnational mining firms? Szablowski (2007) contends that reputation in the mining industry is not company or brand specific but a collective issue. This is an insightful observation as ‘all companies in the mining sector suffer reputation damages when any mining company in any country is criticized’

Recognizing the importance of ‘collective reputation’ in the controversial business of mining, the perceptions of firms in the international financial climate is vital for attracting investment and engaging with host governments. Apart from the business case, companies are also aware of ‘naming and shaming’ practices in the international context. As such, global norms play a key role in influencing the practices and policies of these firms.

**Historical Institutionalism**

Having emerged from a pluralist and neo-Marxist debates, historical institutionalism does not view the state as a neutral broker but a complex of institutions. In this framework, institutions are defined as “the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy” (Hall and Taylor, 1996). Features unique to historical institutionalism include an open conceptualization between a person and an institution, whereby a “calculus approach” exogenously provides actors with predicable behavioral present and future approaches (Hall and Taylor, 1996). Also, this approach asserts that institutions influence power relations and “have been strong proponents of an image of social causation that is ‘path dependant,’ … pushing historical development along a set of ‘paths’” (Hall and Taylor, 1996).

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8 Hönke and colleagues (2008).
9 Hönke and colleagues (2008).
Hall and Taylor (1996) put forward four dominant features of historical institutionalism: 1) it encompasses relationships between institutions and individual behaviour which are conceptualized in relatively broad terms; 2) it emphasizes the asymmetries of power which are associated with the operation and development of institutions; 3) it explores the impact of path dependencies and unintended consequences; and 4) it integrates institutional analysis with the impact of other factors, such as ideas, on political outcomes.

Putnam (2003) also asserts that historical institutionalism makes two primary assumptions: institutions shape politics and institutions are shaped by history. Thelen (1999) concurs with Putnam’s assessment in stating that institutions are inherently historical in nature and are characterised by larger political and social contexts. Thus, historical institutionalism is used to identify and verify factors which influence policy development and sustained policy implementation. Similar to Putnam and Thelen, Mahoney (2000) sees path dependence as “specifically those historical sequences in which contingent events set into motion institutional patterns or event chains that have deterministic properties.” Overall, historical institutionalists posit that institutions are shaped by history and that this history is important in understanding both contemporary policy and institutional change. Fioretos (2011) echoes the sentiments of the authors above by stating that ‘historical institutionalism scholarship is no longer about determining whether history matters, but on how historical process influence political outcomes. In addition to the above conceptualizations of historical institutionalism, it is noteworthy to mention that political outcomes in most cases depend on the capacity of the state. Whether companies engage in the fostering of state regulatory capacity in a particular institutional setting depends on the capacity or strength of the state (Börzel, 2007). Intuitively, the stronger the state, the more it would be able to serve as an efficient and effective regulator. However, in certain instances, civil society organizations fill the vacuum of the state due to its weakness or lack of capacity.

**Canadian Mining Firms and Investments in Africa**

Canada is a global mining giant. For instance, it has been estimated that the mining industry’s contribution to the Canadian economy ranged from $40 billion to $35 billion a year or between 4 and 2 per cent of Canada’s gross domestic product (GDP) between 2005 and 2011. Globally, Canada is among the top 5 producers of key minerals including: Uranium, Cobalt, Aluminium, Titanium, Platinum, Tungsten, Sulphur, Diamonds and Nickel, and is the world’s largest producer of Potash (MAC, 2012). Mining is one of the largest export sectors for Canada representing 23 per cent of total exports in 2011 (NRCAN, 2011).

Canada’s global presence in mining extends beyond trade. For instance, 70 per cent of the equity capital raised for mining globally in 2012 was raised on the Toronto Stock Exchange (TSX) and the Venture exchange (TSXV). Canadian exchanges are the largest source of mining financing in the world. It is therefore not surprising why the Prospectors & Developers Association of Canada (PDAC), representing the interests of the Canadian mineral exploration and development industry, is the one of the largest tradeshows attracting over 23,000 people from more than 110
countries. This can be attributed to Canada’s mining friendly business environment. Of the $10.3 billion in equity raised for mining on the TSX and TSXV in 2012, $1.9 billion or 18.5 per cent was for projects in Latin America while another $1.7 billion or 16.5 percent was for projects in Africa. Campbell (2011) notes that “Africa now accounts for about 17 percent of Canadian mining assets abroad, up from 11 percent in 2001. Next to South African investments, companies registered on Canadian stock exchanges now represent the most important source of investment in mining in Africa”. Even though Canada invests heavily in the mineral resource sectors of Africa and has established a solid international reputation over the years, some Canadian mining firms have been found violating human rights. From the standpoint of shareholders and Canada’s reputation, human rights violations pose reputation risks that need to be addressed within the context of global corporate social responsibility frameworks (see Table 1, Appendix).

Canadian mining firms are of particular interest in this paper due to two main reasons: First, while Canada does not have an overarching CSR law, it has adopted a number of voluntary aspirational conventions regarding CSR that, because of their nature, are not directly applicable within Canada. These include UN Declaration on the Rights of Indigenous Peoples (2007); Voluntary Principles on Security and Human Rights (2000); and OECD – Guidelines for Multinational Enterprises (1976). These documents are used as touchstones by civil society in judging mining operations within Canada and mining operations undertaken internationally by Canadian companies. Canada has also signed the OECD International Convention on Combating Bribery of Foreign Officials (1997), which, although not directly applicable, is the genesis for the Corruption of Foreign Public Officials Act, 1999 that criminalises the bribing of foreign officials\(^\text{10}\) (Fasken Martineau, 2013). Second, close to 60 per cent of the world’s public mining companies are listed on the Toronto Stock Exchange (TSX) and the TSX-Venture Exchange (TSX-Venture), with 73 new mining listings in 2013.\(^\text{11}\) This clearly reflects Canada’s influence on the global stage in terms of mining.\(^\text{12}\)

**Overview of Cases: Ghana, South Africa**

Canadian transnational mining firms dominate the African mining sector, and Canadian mining companies such as Kinross Gold, Golden Star Resources, and Atlatsa Resources Corporation and Superior Mining International Corporation have a sizable presence in Ghana and South Africa respectively. For instance, Kinross in Ghana (Chirano Mines), one of the largest gold mining companies in the world highlights their endorsement of the Voluntary Principles on Security and Human Rights and Extractive Industries Transparency Initiative (EITI) on their website. The firm also states that they are fully compliant with the principles outlined in the EITI and have also implemented a Human Rights Adherence and Verification Program under VPSHR.

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10. Fasken Martineau (2013)
11. Ibid.
12. Ibid.
To what extent does this externally-driven rhetoric of implementing these governance frameworks match the actual practice on the ground?

Ghana and South Africa are excellent candidates for comparative analysis as both countries are considered resource-rich democracies that have witnessed increased foreign investment within their extractive resource sectors. Ghana is an evocative case in natural resource extraction because of the international community’s recognition that it has functioning democratic institutions with a relatively successful democratic tradition. South Africa is still considered to be “the country with the world’s largest mineral endowment” (Carroll 2012: 1) and given its history of apartheid racial system and successful transition to democracy, it serves as an illustrative case of the extent to which domestic institutional structures influence global CSR norms. The key differences between South Africa and Ghana that are central to my analysis pertain to the influences of colonialism and natural resource wealth. While both countries were colonized, South Africa was a settler colony while Ghana was not. Despite the existence of large natural resource deposits, a critical assessment of the Ghanaian economy shows that the standard of living of the average Ghanaian is not commensurate with the value of the country’s natural resource exports (Akabzaa and Ayamdoó, 2009; see also Andrews, 2016). While the mining sector of South Africa had a notorious history of socio-economic exploitation under a repressive apartheid minority government, the country has emerged as a middle power and ranked as a ‘Medium Human Development’ state by the UN Development Programme. Nevertheless, on several occasions, labour unrest in South Africa’s mining sector has resulted in violent reprisals from security forces.

**Global Governance Frameworks and their Influence: VPs and EITI in Ghana and South Africa?**

*VPS and EITI (see Table 1 in the Appendix for a comparative table)*

The Voluntary Principles were established in 2000 in an initiative launched by the British Foreign & Commonwealth Office and the U.S. Department of State. Since their inception, the Voluntary Principles have been used by extractive industries to strengthen their capacity to address complex security and human rights issues in their operations around the world (Voluntary Principles, 2016). As a multi-stakeholder global governance initiative involving governments, companies, and NGOs, it helps to provide guidance to companies on steps they can take to minimize the risk of human rights violations in communities in which they operate. The Voluntary Principles provide a framework for extractive companies to manage security-related human rights risks effectively by undertaking comprehensive assessments of human rights risks associated with security in complex environments; engaging appropriately with public and private security service providers and their local communities; monitoring the human rights records of public and private

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13 See also Diale (2014a and 2014b).

security forces; providing training on human rights issues; and developing systems for reporting and investigating allegations of human rights abuses.\(^{15}\) (Voluntary Principles, n.d.a).

The Extractive Industries Transparency Initiative (EITI) was launched at the World Summit on Sustainable Development in Johannesburg, September, 2002. The main goal of the EITI is to enhance transparency around the generation and spending of revenues from the extractive sector in order to improve economic development outcomes, promote accountability and to reduce the potential for corruption. In countries participating in the EITI, corporations are required to publish what they pay to governments and governments are required to publish what they receive from these corporations. These disclosed figures are then reconciled by an independent administrator. As a multi-stakeholder governance initiative, the EITI was born out of concerns regarding the effects of the so-called resource curse, a concept that scholars have used to highlight the fact that the significant potential benefits from natural resource revenues do not come to fruition in many resource-rich countries, especially in the Global South (Alorse et al., 2015).

\textbf{(Non)Participation in the VPs and EITI: Comparing Responses of Ghana and South Africa}

\textit{Ghana}

On 26-27 March 2014, the Government of Switzerland hosted the Voluntary Principles on Security and Human Rights (VPs) Initiative Annual Plenary Meeting in Montreux, Switzerland. It was during this meeting that the Government of Ghana announced its intention to join the VPs Initiative pending parliamentary approval. Ghana joined the initiative in April 2014, as the first African government participant.\(^{16}\) Following this, a workshop was held to draw the country’s Action Plan for implementation.\(^{17}\) Ghana’s membership signals a commitment to human rights and supporting a positive business climate for oil and gas companies.

In November 2014, a baseline study was conducted by Global Rights Partners for Justice to determine the level of knowledge, and degree of implementation of the VPs in Nigeria and Ghana.\(^{18}\) In this study, survey data was requested from the three key stakeholder groups – communities and civil society organizations (CSOs), companies, and government bodies. Information from communities and CSOs was based on their perceptions of VPs penetration. In total, 334 community surveys were analyzed; three corporate surveys and a letter were received, and Annual Reports from VPs participants operating in both countries were reviewed. This in-depth analysis reveal that in Ghana, extractive host communities were mostly unaware of the VPs and the majority of community members were unaware of the status of the companies operating

\(^{15}\) Voluntary Principles, n.d.a.
\(^{16}\) The voluntary principles on security and human rights initiative welcomes Ghana (2014).
in their local area. For instance, 82% of extractive host community respondents stated they had “no knowledge” of the VPs.\textsuperscript{19} Moreover, company grievance processes were not well-known among host communities and there was lack of governmental engagement in promoting host communities’ human rights and companies’ security. For instance, the study revealed that over three years, over 69% of respondents mentioned companies have not consulted with the community on security issues or impacts and they were unaware of any campaigns on security issues for communities and civil society organizations initiated by any of the companies or the government. This clearly signals lack of engagement among key stakeholders, including government, companies and local communities. Obviously, lack of meaningful engagements have implications for the general level of awareness and productive debates regarding security, safety, risk assessments, and human rights violations. In order to fully comprehend why there is limited engagement among stakeholders, it is vital to reflect on some of the historical contexts of mining in Ghana.

This paper briefly examines the history of the gold mining industry with respect to government-company-community relations, a relationship characterized by a top-down approach of centralization and mistrust. Ghana, formerly known as the Gold Coast, has a long history of mining going back to over a millennium.\textsuperscript{20} Aryee (2001) asserts that gold is the largest contributor to Ghana’s economy, accounting for about 38% of total merchandise and 95% of total mineral exports. Garvin and colleagues (2009) relied on primary and secondary materials to provide a good historical overview of the gold mining industry post-independence. To summarize, Ghana underwent a nationalization exercise and mines primarily became state-owned post-independence in 1957 (but prior to Structural Adjustment Policies). Between 1960 and 1985, due to nationalization, the mining sector experienced some production, technical and financial constraints, resulting in a decline of output. Similar to other countries in Africa and Asia, Ghana sought relief from the World Bank and IMF through Structural Adjustment Policies (SAPs), leading to a set of economic and social policies which had negative and positive outcomes. During the SAPs period, the mining sector received considerable attention due to its importance to the national economy. In order to bolster investment and development, “a set of regulatory institutions and a new legal framework was initiated in 1986 which streamlined the mineral rights licensing procedures and gave mining companies, among other things, general tax allowances, exemption from customs duties, a rebate on royalties, and fewer foreign ownership restrictions” (Garvin et al., 2009: 572). The establishment of these regulatory institutions were partly responsible for the country’s rapid and significant growth between 1983 and 1998, resulting in substantial growth in export earnings for the national government, particularly in gold and diamonds. Overall, despite trade liberalization and economic growth, control over mineral resource development and the distribution of revenues from mines in Ghana remains highly centralized, favouring the national government.\textsuperscript{21} For instance, applications for an exploration or mining license go through a series

\textsuperscript{19} Ibid.
\textsuperscript{20} Government of Ghana (1980).
\textsuperscript{21} Garvin and colleagues (2009: 572). See also Dashwood and Puplampu (2010 and 2014).
of centralized committees and government agencies relating to mining (Akabzaa and Darimani, 2001). Moreover, discussions relating to the mineral sector generally take place among national agencies with little engagement with local communities and their leaders, the main victims of mining operations (Anaman, 2002; Antwi, 2002). When communities are informed of potential development, it is usually by the mining companies themselves, rather than by the national engagement. Considering that there are generally pre-existing tensions between transnational mining companies and local community members who mostly focus on small-scale mining, these dynamics exacerbate lack of trust in local communities when it comes to state-led implementation of global governance frameworks such as the VPs. However, this level of centralization implies that the central government could make autonomous decisions regarding participation in global governance frameworks prior to the consent of regional or local actors. This might be a key reason why Ghana is able to take decisive steps when it comes to signing up as a participating member of the VPs, especially as the first African government to do so. We do recognize that this assertion could not necessarily be generalized in the context of sub-Saharan Africa but the historical context with respect to institutional factors matter. Ideally, a robust level of state-community-company engagement prior to making decisions about these frameworks would be helpful in understanding challenging local issues when it comes to private and public security, and risk management for companies. Ultimately, a collaborative approach would be essential for generating trust among the actors and for creating rooms for meaningful public debates.

When it comes to the EITI, Ghana was one of the first countries to adopt the initiative in 2003 and, “in fact, constitutes the first candidate country to deal with the mining sector only” (Sefton and Lempa, 2013). Over the years, Ghana has made significant progress in fulfilling most of the EITI criteria, especially in the context of the national government. However, little attention has been paid to sub-national government implementation and reporting the value of non-cash payments by companies. Improvements in these areas are essential for translating natural resource wealth into better development for the local population, including district assemblies, traditional councils and impacted mining communities. For instance, the Minerals Commission of Ghana (2001) indicated that eighty percent of mining royalty goes directly to the central government’s consolidated fund while 10% is earmarked for administrative oversight for departments. Of the remaining 10%, 5.5% goes to district administration, traditional councils receive 2%, and local chiefs receive 2.5%. This is quite insignificant considering that local communities are most affected by the adverse impact of mining. To ensure that there is an adequate engagement at the local level and to boost trust among local actors, the central government needs to reconsider how the current institutional arrangements regarding revenue sharing and transparency impact local communities. Consistent channels of consultation and engagement among government actors, companies and community members are necessary for mutual dialogues, debates and for resolving potential tensions or conflicts.
In the case of South Africa, a 2014 annual report of the Government of Netherlands revealed that “South Africa has been a VP priority country since the 2012 March Annual Plenary Meeting.” However, there was limited outreach to the South African government in 2014. Overall, the South African government has been reluctant to discuss the VPs with all VP members even though the UK government (2014 chair of the VPs) has made an outreach effort. Ironically, the EITI was announced in Johannesburg in 2002 by former British Prime Minister, Tony Blair, at the World Summit on Sustainable Development but South Africa is still not a participating member of the EITI. Similar to Ghana, South Africa has a long history of mining. Therefore, it is important to examine the country’s historical context in order to understand why it has been reluctant to join the VPs and the EITI. Hönke and colleagues (2008) provide a compelling account of South Africa’s corporate social responsibility strategies while making references to the historical context. Like other accounts of South Africa’s socio-economic history, the authors posit that the current discourse on corporate responsibility and the interaction of various actors in the South African context is closely related to the role of business during the apartheid era: “Dominated by white Afrikaner business, the South African corporate sector during apartheid was based on an exploitative as well as highly segregate system of forced labour, which initially was supported by foreign investment and later subject to trade sanctions in the wake of South African isolationism.” In terms of the role of businesses in the democratisation and reconciliation, while some scholars make the argument that the admission of black workers into semi-skilled jobs, abolishment of workplace segregation and the support of urban reform contributed to the process of overcoming apartheid, others contend that “remarkably progressive actions of a few business leaders” and the very own behaviour of firms have helped South Africa’s transition to democracy. The authors note that during South Africa’s transition period, businesses were “extremely apprehensive” to large-scale national redistribution measures that might bring radical economic change. As such, they adopted effective monitoring and lobbying practices to influence the government. Even though businesses, especially mining companies, have been influential in many ways, they were never truly held responsible for complicity in human rights abuses or any other malpractice under the official reconciliation process (Bezuidenhout et al., 2007).

A research report completed by the Open Society Initiative for Southern Africa (OSISA), United Nations Development Program (UNDP) and Global Environmental Facility (GEF), state

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23 Ibid, 10.
24 Ibid.
that during the apartheid and colonial eras in South Africa, mining trumped surface land rights. As such, mining companies were given the legal power to acquire mineral rights over agricultural land and even in environmentally sensitive communal and tribal areas. Natural resources were simply exploited without paying particular attention to social and environmental impacts or accountability.

The report also points out that post-colonial and post-apartheid laws still vest mineral rights in the state. For instance, the Minerals and Petroleum Resources Development Act of 2004 vests mining rights in the state. Moreover, South Africa has included environmental, social, cultural, and economic rights in its national Constitution, which is likely to influence the way extractive industries deal with communities’ social and environmental rights. Civil society organisations and community groups may also use the constitutional provisions to protect the rights of communities and to hold governments and mining companies to accountable. Furthermore, South Africa has developed a specific legislation on access to information -- the Promotion of Access to Information Act provide citizens with the right to access records in the custody, or under the control, of public bodies. With these in mind, Hönke and colleagues (2008) assert that a first glance at South Africa reveals a surprisingly far-reaching and well developed environmental legislation. However, the

\[\text{the weakness of the South African state mainly lies in its limited capacity to effectively regulate its territory in certain policy fields, in particular in the field of environmental regulation and the combat of crime. South Africa’s weak regulatory capacity pertains both, to the lack of specification of these norms, and, most of all, its capacity to implement and enforce them (Hönke et al., 2008: 14).}\]

Concluding Remarks

In this paper, we examined global governance regimes in the mineral resources sectors of Ghana and South Africa. Utilizing Constructivism and historical institutionalism as theoretical approaches to analyse how the VPs and the EITI could potentially influence the behaviours of state and non-state actors, we posited that in order to assess the extent to which global governance regimes influence the behaviour of various actors, it is first imperative to critically examine historical contexts with respect to institutional and legal frameworks. This is essential for understanding critical junctures and current state-business-community relations. We argued that this initial examination is important for promoting a robust level of engagement among various actors as limited knowledge about these initiatives tend to be a major challenge when it comes to implementation in local settings. In our analyses, we provided a historical overview of the mineral resource industries in both Ghana and South Africa.

Our discussions above highlight some of the key aspects of the state-business nexus in Ghana and South Africa. Whereas the state-business dynamics was mostly controlled by the central government with a lesser role of civil society organizations, South Africa’s landscape tend to be slightly opposite. The influence of the powerful business sector (e.g., the South African Chamber of Mines), the establishment of Promotion of Access to Information Act and
entrenchment of environmental and socio-economic rights in the constitution, and the active engagement of civil society groups could be highlighted as a few possible reasons why South Africa chose not to be a member of the VPs or the EITI. In both countries, mineral rights are vested in the state. However, in the case of Ghana, the Central government could take an initial and decisive step regarding global governance initiatives in the mineral resource sector without necessarily worrying about all the diverse interests of the players, cognizant of the fact that the national government could potentially curb any pressures from the domestic context. South African national leaders on the other hand need to be extremely cautious of their historical context of race tensions, apartheid’s legacy on the extractive industry, voices of powerful industry players and activist community groups and civil society organizations. To encourage South Africa’s participation in the EITI and VPs, it is important to build a sense of trust among the various groups. Moreover, the national government would have to convince other stakeholders through dialogues why these initiatives are indispensable for the country. For instance, South Africa\(^2\) is already a high-ranking member of the International Budget Partnership, an initiative that uses budget analysis and advocacy as a tool to improve effective governance and reduce poverty. As such, state officials may have to highlight transparency and combatting corruption in their initial messaging to win other stakeholders to their side.

In terms of the influence of the UNGPs, we mentioned that some countries are now establishing their National Action Plans. To be more specific, countries in Europe are taking the lead with respect to the UNGPs implementation. However, there hasn’t been any notable progress from other places, including Africa. For instance, as of May 2016, the International Corporate Accountability Roundtable (ICAR) and the Danish Institute for Human Rights (DIHR) noted that countries including Denmark, Finland, Netherlands, and the United Kingdom are the European countries that have created their own National Action Plans. Based on the popularity of this framework and the historical analyses we have put forward, we suspect that both Ghana and South Africa would express their interest to create National Actions Plans (NAP). Based on Ghana’s enthusiastic embrace of the VPs and the EITI, it is highly likely that Ghana would make the first move. Based on South Africa’s previous attitudes towards the initiatives discussed, it is possible that South Africa may be reluctant again (or could take a ‘NAP’ based on the acronym of the UNPs implementation) but of course, we can never predict the future.

References


\(^2\) Hughes (2012).


