Sustainability reporting in the mining sector: Why institutional dynamics of reporting disappoint beliefs in its potentials for increased corporate accountability

FIRST DRAFT

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Abstract

There is general understanding that mining operations may cause significant damages to the natural environment, pose threats to the livelihoods of local communities and public health, violate human rights, and undermine democracy. For a long time, these concerns were ignored. The mining industry has nonetheless become a leader in social and environmental reporting. Yet, reporting practice in the mining sector indicates that endorsement of sustainability reporting has fallen short of its intent to strengthen corporate accountability. Hence, the more fundamental question rises why sustainability reporting gained ground although its credibility is subject to on-going criticisms. This paper seeks to address this question by looking at institutional dynamics in its ‘evolutionary logic.’ Sustainability reporting in the mining sector grew at the intersection with institutionalized rules about economic globalization, development promises of export-led industrialisation in the global South, and ‘cultural scripts’ about the power of markets in solving social and environmental problems. Its market-based model, in addition to instrumentalised stakeholder dialogues, tendency for organizational narcissism in glossy sustainability reports, and adherence to a low-performance, high-persistence organisation explain why sustainability reporting in the mining sector disappoints beliefs in its potential for increased corporate accountability.
**Introduction**

Large-scale mining of metals like copper and gold may cause significant damages to the natural environment, pose threats to the livelihoods of local communities and public health, violate human rights, and undermine democracy. Industrialised countries depend on these resources, which are largely extracted in distant parts of the world like the Andean mountains of Latin America. Chile and Peru, for instance, are well known for the large share of primary products in their exports. They are the first and second largest copper producers in the world, with China, Germany and Switzerland as important recipients of their extracted commodities. The global market for metal mining products is dominated by multi-national corporations that are mainly headquartered in the OECD world; notably Australia, Canada, Japan, UK and the United States. Corporations like the Canadian Goldcorp or the UK-based Rio Tinto have become responsible for more than 80% of the world’s non-fuel mineral production (Dashwood 2013).

For a long time, the harmful effects of industrial mining on the environment and their negative human rights record did not capture much attention. Mining operations occupy less than 1% of the world’s terrestrial land surface and affected communities appeared manageable (Bridge 2004). The extraction of non-renewable natural resources (formed during geologic times) for profit maximization of shareholders is traditionally the predominant driver of this sector. Yet, the disclosure of non-financial information has emerged as a crucial strategic consideration for mining corporations to generate a ‘social license’ for operations over the last two decades (Vintró et al. 2012; Yakovleva & Vazquez-Brust 2011). Socio-economic development and environmental protection became adds-on in corporate agendas to legitimate an intrinsically dirty business.

The fact that the mining industry has become a leader in social and environmental reporting appears puzzling when looking at the highly fluctuating commodity prices and the competitive environment in which it is situated (Dashwood 2013). Institutional perspectives on sustainability reporting, on the other hand, stress that organizations faced with strong external pressures are more likely to increase disclosure of non-financial information to maintain their legitimacy (e.g. Cho et al. 2012; Webb 2012). This is true for the hard-rock metal mining industry, which is challenged to respond to the growing recognition that adverse impacts may extend well beyond the mine site and the time horizon of the mine life (Himley 2010). Moreover, sustainability reporting represents an important source of accountability in developing countries and emerging economies. A lot of times, regulatory oversight and enforcement capacity is lacking in these countries (Börzel et al. 2012), resulting in sustainability reports as at least one source of information for interested parties to hold on to.

When engaging in sustainability reporting, mining corporations draw mainly on the guidelines of the Global Reporting Initiative (GRI) and its mining sector supplement (Boiral 2013; Fonseca 2010). One of the initial goals for setting up the GRI scheme was to empower civil society in their demands for greater corporate accountability. The GRI emphasized this
point more recently by stating that a company’s engagement with stakeholders is crucial for delivering credible reports (GRI 2011: 10). Reporting practice in the mining sector indicates, however, that the GRI has fallen short of its intent to strengthen corporate accountability (Murguía & Böhling 2013). Hence, the more fundamental question rises why sustainability reporting gains ground although its credibility is subject to on-going criticisms. This paper addresses this question by looking at sustainability reporting in the mining sector as an example of what Bernstein and Cashore (2007) defined as a non-state market-driven (NSMD) governance system. Accordingly, it is assumed that the broad adoption of non-financial disclosure in the mining sector underwent a specific ‘evolutionary logic’ which failed to achieve political legitimacy. Sustainability reporting in the mining sector thus disappoints demands for increased corporate accountability.

The original conception of accountability applies to the relationship between bureaucrats in public administrations and the general public and refers to the process of holding the former accountable for their actions through political and legal actions of external scrutiny and sanctions (Mulgan 2000). This conception needs to be broadened to be applicable to sustainability reporting in the private sector. Accordingly, corporate accountability implies responsiveness to external expectations; i.e., owners, shareholders and stakeholders can call corporations to account for their performance by entering dialogues that “answer, explain and justify, while those holding them to account engage in questioning, assessing, and criticizing” (ibid: 569). In resource-rich economies of the South, corporate accountability emerged from on-going historical struggles over resources use. It is triggered by efforts of communities to hold corporations accountable for their impacts on livelihood issues like land rights and environmental degradation, and needs to be located in a set of accountability relationships that includes states, NGOs and multilateral finance institutions like the World Bank or the International Monetary Fund (Garvey & Newell 2005).

The paper is structured as follows: An empirical section about sustainability reporting in the mining sector provides the basis for the theory-led analytical section of the paper, which is built around an elaboration of the Bernstein and Cashore (2007) ‘three-phases-model’ of NSMD governance systems. The model has distinct shortcomings and these provide the starting point for identifying a number of factors that may explain why political legitimacy may not be achieved once an NSMD system is initiated and gains widespread acceptance. The empirical section shows that the management of reporting creates a gap between claimed sustainability and actual on-the-ground performance. Institutional perspectives on transnational regulation in management studies (e.g., Banerjee 2008; Boiral 2013; Haack et al. 2012; Levy et al. 2010) and recent scholarship from the growing body on private governance (e.g., Auld et al. 2008; Bernstein & Cashore 2007; Dashwood 2013; Dingwerth & Eichinger 2010; Webb 2012) are used to account for this gap as the result of institutional dynamics.
The global and the local in sustainability reporting of the mining sector

The global level of sustainability reporting in the mining sector

Causing significant damage to the natural environment and threats to human wellbeing, mining is perhaps the least likely case for sustainability. Yet, “due to increased societal pressure, mining companies have been actively innovating in the field of CSR [Corporate Social Responsibility] to address the various sustainability challenges of their operations more proactively” (Mutti et al. 2012: 212). This section explores developments at the global level and looks at how these contributed to the endorsement of the sustainability discourse in the mining sector. The growing awareness of the mining industry’s bad environmental and social reputation through NGO activism is part of this move. Large mining corporations have become responsible for more than 80% of the world’s non-fuel mineral production. Their reputation as a ‘dirty business’, continued criticism from NGOs and fears of stricter, government-based regulations pushed multinational mining corporations to enact ‘triple-bottom-line’ reporting as a voluntary self-regulation scheme (Himley 2010; Istvan 2011; Sadler 2004). This type of reporting goes hand in hand with a win-win proposition: “companies can address environmental and social concerns in ways that improve profitability” (Levy et al. 2010: 90).

Table 1 provides an overview of the mining industry’s move towards voluntary self-regulation.
Table 1: Global initiatives in the mining sector for voluntary self-regulation

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Objective</th>
<th>Time frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>GMI (Global Mining Initiative)</td>
<td>Group of 10 global mining companies (HQs in western industrialised countries) responded to continued criticism with collaborative effort at industry self-regulation to justify mining and counter threat of NGO push for tougher international standards</td>
<td>1998-</td>
</tr>
<tr>
<td>MMSD (Minerals, Mining and Sustainable Development Initiative)</td>
<td>GMI initiative in anticipation of WSSD in Johannesburg (2002) with key objective to advance understanding about how mineral and mining sector contribution to SD at global, regional and local levels could be maximized; considered as largest multi-stakeholder process in any industrial sector</td>
<td>1999-2002</td>
</tr>
</tbody>
</table>
| ICMM (International Council on Metals and Mining) | Created to meet NGO criticisms on MMSD (vague recommendations) and take more concrete steps:  
  • Launch of SD Framework (adherence is condition of membership)  
  • Close collaboration with GRI to establish reporting criteria (GRI reporting is mandatory for ICMM members)  
  • Commitment to independent third-party assurance | 2001-        |

There are a number of factors, which may explain why the mining industry ‘chose’ voluntary regulation and endorse non-financial information disclosure rather than, for instance, pushing a market-driven certification scheme or promoting public-private partnerships with NGOs and/or international organisations. First of all, industry self-regulatory schemes can generally be found in industries where few companies hold collective reputations and sell primary, not-end-consumer goods (Auld et al. 2008). Currently in Latin America, like in many African and Asian Nations, globally-connected large-scale metal mining projects led by shareholder-owned multinational corporations (MNCs) dominate the primary metals supply worldwide. Many projects started long before the large-scale technologies were invented and disseminated during the 1970s but have been reconverted to match current low ore-grade deposits. In the last decades new projects were opened, financed by private foreign direct investment flows framed under neoclassical regulatory frameworks. Project financing followed the design by the World Bank that was published in technical papers during the 1990s for Africa and Latin America.¹

¹ Following Gutman (2013) and as expressed in the Final Report of the Extractive Industries Review by the World Bank (2003), during the 1990s over 100 national legislations, mining codes and investment regimes were reformed following the bank guidance and supervision in order to become attractive to foreign capital. In
Secondly, the mining industry seized the opportunity to position itself as a driver of sustainable development in the resource-rich economies of the South and used the momentum that was generated in the international deliberations of United Nations conferences to repair its reputation. Ever since the Agenda 21 of the Rio Earth Summit encouraged business to communicate their socio-environmental records, the practice of sustainability reporting has been dominated by large companies including mining corporations (Brown et al. 2009; Fonseca 2010). Environmental NGOs and socially-minded investors of the Coalition of Environmentally Responsible Economies (CERES) launched the GRI in 1997 to integrate and harmonize nonfinancial reporting schemes (Khagram & Ali 2009). The GRI is recognized for encompassing a relatively broad scope of sustainability indicators that are regularly updated in complex multi-stakeholder settings with inclusion of business, organized civil society, labour, consultancies, academics and representatives of governmental and nongovernmental organizations (Dingwerth & Eichinger 2011; Lozano & Huisingh 2011). The mining industry, notably the Global Mining Initiative, played an important role in the growth of sustainability reporting (Dashwood 2013). It published its report about the mining industry’s contribution to sustainable development at the Rio follow-up conference – the World Summit on Sustainable Development in Johannesburg in 2002 —, worked closely with the GRI to develop the sectoral supplement in sustainability reporting, and turned adherence to GRI into a condition for inclusion in the International Council on Metals and Mining.

Sustainability reporting within the GRI scheme creates high expectations. Some have described it as a ‘functional equivalent’ to public forms of governance (Pattberg 2005), while others maintain that sustainability reporting reflects a shift in economic governance that is increasingly to be understood as multi-playered and multi-layered (Bendell et al. 2011). Sustainability reporting promotes a neoliberal mode of corporate-centred resource governance (Himley 2010). Transparency with local stakeholders is now recognized as a factor driving business performance (Gomes et al. 2013). On-the-ground experience with GRI sustainability reporting, however, reveals that high expectations formed around multinational mining companies are met with underwhelming performance (Manetti 2011; Mutti et al. 2011; Yacovleva & Vazquez-Brust 2011). The next section explores the gap between global rhetoric and local realities with evidence from the mining sector in developing countries.

The local level of sustainability reporting in the mining sector

The mining industry, considered a bellwether of the global economy (PwC 2012), has positioned itself within the sustainability agenda (Han Onn & Woodley 2014) and has become an important actor in the worldwide adoption of the GRI as the leading sustainability
reporting guideline. Nevertheless, alongside its widespread usage, this practice has been under an on-going scrutinizing pressure by manifold civil society actors like Oxfam, OECD Watch, Friends of the Earth or locally-based activist networks focusing their attention on on-the-ground realities and the gap with reports’ accounts. Addressing this gap, Boiral (2013) conducted a comprehensive content analysis\(^2\) of the sustainability reports from 23 large metal mining and oil and gas extracting companies, and complemented this analysis’ findings with evidence from what he describes as ‘counter accounts’. He challenges the managerial capture of sustainability reporting – thus producing reports that “tend to be biased, reflecting the management’s interests rather than the firm’s true situation” (ibid: 1043) – with empirical evidence about these companies’ activities on basis of alternative sources of information.

Doing so, Boiral (2013) revealed that reporting practices tend to disconnect negative impacts from business activities, to control and distort the disclosed information towards shading a good light on the company and towards the proliferation of misleading images. Our research about sustainability reporting in Argentina’s largest copper, gold and molybdenum open pit mine confirms these insights (Murguía & Böhling 2013, Murguía 2014). The Minera Alumbrera mine is operated by a Swiss-Canadian consortium since 1997 with an estimated closure date in 2018 (check on internet whether it has not been extended), and is known for its allegedly negative environmental performance. Contrasting the company’s sustainability reports from 2009 to 2011 with other sources of company-related information like newspaper articles, sector publications, state office reports and academic contributions, we found that environmental and economic issues were the most contentious and those reported with the poorest quality, i.e. providing either incomplete data or information not precise enough to match GRI detailed protocols’ requirements. We challenged the quality of reported data in sustainability reporting and concluded that it can only play a role in improving a company’s performance and reputation if it is good enough to answer contentious issues raised by communities, and if anti-mining activists enter the radar of stakeholder dialogues.

<table>
<thead>
<tr>
<th>Category</th>
<th>No of indicators listed in SR 2009</th>
<th>No of indicators disagreeing in SR 2009</th>
<th>Disagreeing indicators codes</th>
<th>No of indicators per level of conflict</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>EC 6, EC 4, EC 1, EC 7, EC 9, EC 8</td>
<td>High: 3, Medium: 3, Low: 0</td>
</tr>
<tr>
<td>Economic</td>
<td>11</td>
<td>6</td>
<td>EN9, EN20, MMS, EN21, EN3, EN26, EN52, EN20, EN4, EN12, EN16</td>
<td>3  4  0  5</td>
</tr>
<tr>
<td>Environmental</td>
<td>31</td>
<td>11</td>
<td>LA1</td>
<td>0  0  1  2</td>
</tr>
<tr>
<td>Labour</td>
<td>16</td>
<td>1</td>
<td>MM11, HR 4, HR 5</td>
<td>0  0  1  2</td>
</tr>
<tr>
<td>Human rights</td>
<td>10</td>
<td>3</td>
<td>SO1, MM10, SO8, SO6, MM7, SS2</td>
<td>0  0  3  3</td>
</tr>
<tr>
<td>Society</td>
<td>12</td>
<td>6</td>
<td></td>
<td>0  0  0  0</td>
</tr>
<tr>
<td>Product responsibility</td>
<td>4</td>
<td>0</td>
<td></td>
<td>7  9  11</td>
</tr>
<tr>
<td>Total</td>
<td>84</td>
<td>27</td>
<td></td>
<td>7  9  11</td>
</tr>
</tbody>
</table>

Source: self-elaboration based on literature review.

Table 2: Summary of disagreements between the 2009 sustainability report and stakeholder views (Source: Murguía & Böhling 2013: 206)

\(^2\) Content analysis is a widely acknowledged methodology in corporate disclosure studies (e.g. Guthrie & Abeyesekra 2006; Manetti 2011; Perez & Sanchez 2009). It is a process of systematically classifying collected
Table 2 shows the disjuncture between reporting in 2009 and stakeholder views. During 2011 and 2012, disputes and protests about the mining operations went on. A nearby national route was blocked in May 2012, delaying vehicles transporting equipment and personnel belonging to Minera Alumbrera. In early 2012, selective road blockages were executed by some group of stakeholders of the Tinogasta assembly preventing the pass of trucks transporting mining equipment. The protests were repressed by local police forces and the blockages were lifted. The parties involved did not engage in any dialogue process and the conflict is ongoing (Aranda 2012; Mu 2012). At the same time, Minera Alumbrera continued publishing sustainability reports. The 2010 and 2011 reports followed the updated GRI guidelines. Interestingly, the latter report is presented as part of the Xsarra Copper Group commitment to ‘transparency and stakeholder engagement.’ Engagement is understood here as Corporate Social Involvement through which investments for infrastructure are done and citizen surveys conducted. The ongoing tailings dam leakages or the significant water extraction from the aquifer, which had been scandalized for many years, were not mentioned.

There exists much empirical evidence in the scholarly world, which reveals that the practice of sustainability reporting in the metal mining industry tends to be misleading, ambiguous, not transparent enough and contested. A case study in the Lake Victoria goldfields in Tanzania, for instance, has revealed that while the goals of financial and non-financial reports depend upon transparency in order for the corporations to be rewarded according to their triple bottom lines, it was found that partial truths, ambiguity, and dissembling are more representative of what occurs (Emel et al. 2012). Another study from Australia found that several prominent companies, among them some mining giants, were filling reports with partial and missing information, actually with human rights and stakeholder engagement indicators inconsistently reported in a large number of cases (Loussikian 2014). Evidence for such reporting practices – characterized by a lack of completeness and transparency – was also found in several companies listed in the Johannesburg securities exchange, including mining ones (Maubane et al. 2014).

Sustainability reports are positively valued by investors and shareholders (Berthelot et al. 2012), but appear insufficient in general usefulness (Leszczynska 2012). They provide distant readers with a standardized, measurable and comparable narrative of alleged on-the-ground performance, and promote a managerial understanding of a corporation’s rights and obligations in a given country as a matter of information disclosure, auditing, and monitoring.
of business practice (Garvey & Newell 2005). Yet, as many case studies reveal: “What is not reported or disclosed is (or may be at least) quite as important as what is disclosed” (Emel et al. 2012: 264). Hence, the main drawback with such powerful narratives lies in the fact that they do not allow assessing how big the gap between what is claimed (reported) and actual performance at the mine site is. The latter, more often than not, has been considered harmful and been contested as expressed in hundreds of conflicts surrounding mining operations.³ In other words, reporting tends to over-report positive aspects – thus failing to honor the GRI completeness and balance principles and to contextualize sustainability evaluations (Fonseca et al. 2012).

The disappointing outcomes of sustainability reporting in the mining sector led several authors to raise fundamental concerns about their effectiveness. Despite continuous adjustment of guidelines, disclosure gaps persist and reporting policies remain unclear (Hubbard 2011). Corporations are portrayed as playing important roles in delivering sustainable development (Garvey & Newell 2005), while the more general criticism that TBL reporting cannot be equated with corporate sustainability since reporting is insufficient to ensure the sustaining of the Earth’s life-supporting ecosystems is marginalized (Milne and Gray 2013). It is remarkable, however, that beliefs in the potential of sustainability reporting as a means for increasing corporate accountability remain (Manetti 2011; Mutti et al. 2011; Webb 2012) alongside an espoused need to engage the mining business critically towards more sincere versions of CSR (Hamann and Kapelus 2004). As stated by Owen and Kemp (2012), for instance, the mining sector can restore lost confidence if its internal risk-orientation is reconciled with external expectations invoiced by stakeholders, and a less defensive and more constructive approach towards stakeholder engagement is adopted.

Hence, sustainability reporting in the mining sector may be considered greenwashing, but not solely. In spite of its tendency to result in biased and misleading portrayals of corporate activity, such standardized regular reports are considered accountability tools among international NGOs and may help to empower civil society as well as promoting accountability in weak governance countries where technical reports by the environmental controlling authorities are rare. It thus makes sense to push multinational mining companies to re-adjust their reporting by better balancing the share of data designed for both shareholders and stakeholders. They can become more credible and useful to a broader range of critical stakeholders and facilitate course towards a more sustainable future (Ali 2009; Mutti et al. 2012) – at least if a number of conditions are met.

First of all, it seems pertinent that corporations use their sustainability reports to acknowledge locally conflictive issues and allow for self-criticism. Second, more emphasis should be placed on involving stakeholders; even if conflicts are based in apparently irresolvable perspectives on usage of resources. Third, investments in extractive industries can become part of a development path towards sustainable livelihoods if technological advances are used

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³ For instance, by May 2014 the Atlas of Environmental Justice had 227 cases reported of environmental conflicts directly related to mineral ore exploitation around the world, with most of them located along the Andes Mountain range. http://ejatlas.org/type/mineral-ore-exploration
to keep on improving resource efficiency, prevent pollution and risk management. Fourth, much could be achieved if post-closure and expensive long-term reclamation measures (well beyond decommissioning phase) were duly implemented (perhaps through public-private partnerships to share the costs). These conditions, however, are demanding since fundamental reorientations in corporate decision-making are necessary in which the values and interests of all stakeholders involved are taken into account, including governments and authorities, companies and investors, local communities and grassroots groups, NGOs and academia. Why sustainability reporting fails to deliver on its promises is at the centre of the next section.

**Why sustainability reporting disappoints beliefs in increased accountability – towards an analytical framework**

**Sustainability reporting as a non-state-driven governance system**

This section seeks to develop an analytical framework to address the question why the growing practice of sustainability reporting in the mining sector disappoints beliefs in its potential to increase corporate accountability to a broad range of stakeholders including people in affected communities and activist networks. It looks at the GRI-based and GMI-driven practice of sustainability reporting in the mining sector as a ‘non-state market-driven’ (NSMD) governance system because of two reasons: (a) SR in mining intends to embed social and environmental norms in operations; and (b) it derives authority from interested audiences, including those that are to be regulated (i.e., multinational mining companies) (Bernstein & Cashore 2007). NSMD systems vary in their ability to address environmental and social problems because of differences in promoting learning and stakeholder engagement as well as requiring on-the-ground behavioural changes (Auld et al. 2008). Accordingly, sustainability reporting in the mining sector is a combination of non-financial information disclosure and establishment of an industry-wide code of conduct which aims at making corporations’ socio-environmental performance transparent, encouraging them into ‘doing the right thing’, and by triggering stakeholder engagement that may unleash learning about their stewardship. This, however, is far from enforcing specific behavioural requirements. When “specific environmental standards, third-party oversight, and sanctions are absent, firm support does not tend to equate with on-the-ground changes in practices,” according to Auld et al. (2008: 425) and needs to be classified as an effort to avoid governmental regulation.

Nonetheless, and in the absence of ineffective or non-existent governmental regulation, sustainability reporting in the mining sector is appreciated for its potential to increase corporate accountability. In the following, the three-phases model of NSMD governance by Bernstein and Cashore (2007) is applied to identify those variables that may explain why sustainability reporting in the mining sector does not achieve the third stage of ‘political legitimacy’ and hence disappoints the expectation that corporate accountability is increased when companies disclose comprehensive sets of information about their social and
environmental stewardship. Applying their model helps to not fall into the functionalist trap which assumes, as Thelen (2003: 218) puts it, “that the origins of the institutions can be ‘read backward’ off their current functions or features” (see also Bartley 2007; Levy et al. 2010; Selznick 1980). Hence, the ‘evolutionary logic’ of emergent institutions in NSMD governance is emphasized and attention goes to their dynamic nature.

Figure 1: The three phases of non-state market-driven (NSMD) governance (Source: Bernstein & Cashore 2007: 356)

The ‘evolutionary logic’ of Bernstein and Cashore’s (2007: 354) three-phases model – including initiation, widespread support, and political legitimacy – is based on the idea that utilitarian assumptions about self-interested actors (firms) are not sufficient to explain their endorsement of non-state market driven regulatory schemes that increase “burdens and shapes their behaviour, especially when incentives to avoid, shirk, and exit the system are high.” They make a case for combining March and Olsen’s (1996) ‘logic of consequences’ with the ‘logic of appropriateness’, and discern the conditions under which the latter becomes more prevalent. In the early stages, firms may be convinced that participation in an emergent scheme can increase their competitive position in the global market place, and anticipate or prevent the risk of governmental regulations. Hence, the utilitarian logic dominates when a small group of firms initiates self-regulation. It becomes more widespread if it corresponds with global environmental norms like the UN-triggered sustainability discourse with its
sympathy for market mechanisms in environmental regulation. The GRI’s triple-bottom-line reporting style is a prime example of such correspondence.

The shift towards achieving the political legitimacy phase is most challenging as it entails ownership of multiple stakeholders in norm generation and community building through learning processes that help design and institutionalize “formally democratic and deliberative procedures” (ibid: 351). Political legitimacy is conceived here as a (potential) characteristic of NSMD systems which implies rule-following and a certain bindingness of regulations despite a lacking shadow of hierarchy. Political legitimacy is conceived as containing both ‘pragmatic’ and ‘cognitive’ elements, which have been defined by Suchman (1995) as follows: Pragmatic legitimacy emphasizes organizations’ dependence on constituencies in their environments. The latter want the former to be responsive to their interests; legitimacy is accorded to those organizations that have the ‘best interests’ of a significant constituency at heart and can therefore be seen as ‘trustworthy’, ‘decent’ or ‘sustainable.’ Cognitive legitimacy means, that perceptions of larger belief systems (like sustainable development) must mesh with experienced, day-to-day reality; while acting in certain ways becomes taken-for-granted, acting differently is literally unthinkable. Since, as Bernstein and Cashore (2007: 361) note: “no current system fully operates at this phase” – and sustainability reporting in the mining sector is perhaps a prominent example – it is pertinent to look for factors that hamper the achieving of political legitimacy, and thus move toward explaining why sustainability reporting in mining disappoints the expectation of increased corporate accountability.

In search of explanatory variables for disappointed expectations of increased corporate accountability through sustainability reporting

Dashwood (2013: 20) quoted from an interview with an executive from a mining company, which brings out rather nicely the emphasis on pragmatic legitimacy in reporting:

“… mining companies are now expected to justify their activities, not just on economic grounds, but on social and environmental grounds … [and that] since most governments had adopted sustainable development as a key part of their national agenda, the mining industry must talk the language of the audiences it must convince.”

This is just one voice. But the fact that a gap between the globally espoused sustainability rhetoric and local realities sustains, and given evidence for considerable variation in what mining companies are willing to disclose in relation to the GRI indicators (Dashwood 2013; Jenkins & Yakovleva 2006; Perez & Sanchez 2009), there is reason to believe that the achieving of pragmatic legitimacy is the more likely outcome of sustainability reporting in the mining sector. According to Levy et al. (2010), this outcome reflects a core tension between the two logics of GRI that were imperative for enabling the successful initiation of sustainability reporting but have turned into a significant constraint for its evolution. To build legitimacy, the NGO impetus of shifting the locus of corporate governance toward civil
society and environmental stewardship had to be reconciled with the more instrumental value of non-financial reporting to corporate management, investors, as well as auditing and consulting firms.

The GRI thus drew attention to changes in the relationship between business and society. This relationship has been and continues to be an economic one, but public concerns have been rising about the social and environmental impacts of corporate activities (Banerjee 2008). The GRI chose to reconcile the growing demand for civil regulation of corporate governance by following the principles of financial reporting, including relevance, timeliness, neutrality, and comparability, whereas no attempts were made to measure social and environmental performance in absolute terms. Levy et al. (2010: 111) explain the limited utility of sustainability reporting for NGOs and social investors with its ‘nestedness’ in “the broader institutions of capitalism, particularly financial markets and legal structures of corporate governance, which are resilient and well entrenched. GRI would never have made any progress had it directly challenged the primacy of profit maximization.”

Dingwerth and Eichinger (2010: 92) refer to organizational characteristics of the GRI and argue that it prevails despite the failure to empower NGOs because it is a ‘low-performance-high-persistence organisation’: its “main function does not lie in solving, but in ‘coping with’ largely intractable social problems.” Seibel (1996), from whom this notion is borrowed, explains the apparent low-performance-high-persistence puzzle as resulting from an organization’s embeddedness in a non-profit setting (third sector) in which both the interest in failure and interest in ignorance about failure may be nourishing. Applying this point to a reporting corporation in the mining sector implies that it is doing so in an environment which is either interested in not satisfying demands for corporate accountability or – what seems more likely – that certain demands for corporate accountability are ignored; thus, raising the issue of stakeholder engagement in sustainability reporting.

Stakeholder engagement implies a two-way communication, going hand in hand with the expectation that received views are acted upon (Manetti 2011). Empirical evidence, which supports such communication, is scarce, however. Corporate stakeholder dialogues with NGOs seem to have a high instrumental value for strategic management (Huijstee & Glasbergen 2008). Yakovleva and Vazquez-Brust (2012), for instance, argue that mining companies in Argentina often negotiate their CSR activities in response to selected local stakeholders but overlook the concerns of informal anti-mining movements. Likewise, Mutti et al. (2012) state that stakeholder concerns are managed in the sense of convincing them of the benefits brought by mining like jobs, training opportunities, and refurbished infrastructure. Hence, if stakeholders are consulted in sustainability reporting of a mining company, the focus is not on whether mining should proceed or not but to talk about societally acceptable conditions for mining (Banerjee 2008). This excludes by definition any stakeholder group that has opposing agendas.

Sustainability reporting practices may be prone to creating “somewhat artificial representations that distort reality or are disconnected from it, based on information and
images that appear to be authentic and legitimate or that conform to social expectations” (Boiral 2013: 1042). Limited stakeholder engagement hampers transparency about negative impacts of corporate activities and distorts disclosed information; it reflects ‘managerial capture’ of the reporting process according to Boiral (2013) that tends to go hand in hand with frequent uses of misleading images and an optimist rhetoric. As a result, the genuine existence of ‘sustainable mining’ cannot be read off their sustainability reports. Haack et al. (2012), by contrast, propose that different interpretations of controversial corporate activities like clear-cut forests, open-pit mining and oil spills can gradually converge through social interaction and become eventually constitutive of organizational and social change. The ‘ceremonial’ talk about social and environmental stewardship in sustainability reporting can amount to a ‘transitory’ phenomenon if managers “eventually align their conduct to their rhetoric in order to avoid guilt and embarrassment, which arise from confrontations such as NGO allegations of organizational hypocrisy and misconduct” (Haack et al. 2012: 835). This raises the question (again) of which groups are considered as ‘significant others’ that a corporation is willing to listen to. If corporate policies solely determine this, chances are limited that sustainability reporting works for both corporations and society.

Conclusion

Sustainability reporting in the mining sector may be considered a non-state market-driven governance system, which was built at the intersection with institutionalized rules about economic globalization, development promises of export-led industrialisation in the global South, and ‘cultural scripts’ about the power of markets in solving social and environmental problems (Bartley 2007). Its initiation and widespread support among corporations, investors, consulting firms and international organizations is characteristic of this intersection, and shows that sustainability reporting developed a life of its own that merits further attention. Sustainability reporting in the mining sector gains ground although it fails to meet the goal for which it was introduced, namely to embed socio-environmental stewardship in mining operations and increase responsiveness to external demands. It is a ‘market-based model of corporate social responsibility’, according to Banerjee (2008: 74), which “cannot be counted upon to ensure that corporations will always act in the interests of society.” Yet he also states that corporate accountability can be increased if new spaces for more meaningful organization-stakeholder dialogues are established. Others arrived at similar conclusions: Bernstein and Cashore (2007), for instance, with their concern for policy learning and deliberation as crucial for achieving political legitimacy in NSMD systems; or Haack et al. (2012) who argue that corporate sustainability talk is effective in the sense of triggering creeping commitment with espoused goals, and that mutual learning and dialogue with stakeholders should be encouraged.

Hence, the ‘civil regulation’ logic of the new corporate social responsibility schemes – conceived as mechanisms to empower civil society actors to be more assertive in corporate governance – has made its way into scholarship on the effectiveness of transnational
regulation (Auld et al. 2008; Levy et al. 2010). But is there sufficient acknowledgement and implementation of this principle in the corporate world? The International Council on Metals and Mining put the need for a strengthened relationship with communities – including water stewardship, better reporting on health and safety issues, and a strengthened capacity for risk management – on top of its agenda in 2013.\(^4\) Some scepticism about the ‘translation’ of this need in local-level mining operations seems appropriate at this point. The evidence about instrumentalised stakeholder dialogues, the tendency for organizational narcissism in glossy sustainability reports, and the continued celebration of ‘successful failure’ through following on the GRI model of sustainability reporting in the mining sector fuels this scepticism.

This somewhat sobering conclusion hopefully triggers further research on the effectiveness of sustainability reporting in the mining sector. Its ‘evolutionary logic’ is certainly pertinent for the way in which it is playing out on the ground. Yet, research about the conditions for the ‘political legitimacy’ phase in the Bernstein and Cashore model requires more scrutiny. There is need to further look for institutional dynamics when studying the effectiveness of transnational regulation schemes. A promising next step may be to look for interaction and interdependence between rule-makers, rule-takers and rule-intermediaries at global and local levels (see Levi Faur & Starobin 2014). Given that all regulatory processes contain the three distinct components of rule making, rule monitoring, and rule enforcement, attention would shift to mining operations as adopters (rule-takers) of the standards for sustainability reporting and the (hired) professionals (rule-intermediaries) who support their reporting and do the auditing. These actors’ responsibility for corporate accountability, including management capture in reporting, can then be addressed and interpreted as indications of political struggles over the strategies to re-embed global markets for minerals in the societies in which they are extracted.

In the meantime, it may be worthwhile to encourage counter accounts of mining operations. If ‘un-sustainability reports’ were created that meet reporting standards, and contain visually eye-catching elements of long-term environmental risks and social issues caused by mining, a more balanced view would appear of the risks and uncertainties underlying such operations.

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References


