

CORPORATE SECURITY GOVERNANCE: MULTINATIONAL MINING
COMPANIES AND THE LOCAL POLITICAL ECONOMY OF VIOLENCE IN PERU

by

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Abstract

Multinational corporations (MNCs) from the global mining industry have become increasingly active in security governance in areas of limited statehood. Since 2000 they have used dialogue and development activities to mitigate security risks associated with their operations. However, despite a proliferation of community engagement initiatives, violent protest in relation to industrial mining has risen globally. Accordingly, I analyze the efficacy of MNCs as security governors within the context of Peru's mining sector. Over the past fifteen years this country has experienced a dramatic increase in mining-related social conflict, yet industrial mining has had heterogeneous effects locally. Using the subnational comparative method, I examine four cases that exhibit variation in conflict intensity in order to analyze the factors influencing MNCs' impact on security.

I argue that MNCs' ability to mitigate violent social conflict is best explained using an analytical framework that accounts for the political economy of contention within which firms are embedded, and the intra-firm politics that determine their behaviour vis-à-vis civil society. The political economy of contention exogenous to firms establishes a local security baseline, predicting generic social conflict risks and patterns of violence likely to emerge during specific protest episodes. Given this external milieu, the organizational politics of the firm will determine its marginal effect. Firms that marginalize the voice of their community relations subunit are more likely to utilize coercion and cooptation alongside dialogue and development. However, heterogeneity in their security outputs undermines MNCs' legitimacy as socially responsible agents, and hence the ability of community engagement to peacefully manage social conflict.

This study constitutes one of the first systematic efforts to theorize and empirically

evaluate the efficacy of MNCs' local level security governing activities, a subject that has been understudied within the global governance literature. I find that while some MNCs have made modest short-term contributions to security, most have failed to construct conditions for sustainable, positive peace. The evidence presented challenges the prevailing conceptualization of MNCs as agents imbued with capacity-based governing authority, a form of governing legitimacy that is said to derive from their financial resources and perceived efficacy at achieving objectives.

Preface

This dissertation is an independent, original, and unpublished work by the author, Jonathan Kishen Gamu. The fieldwork reported in Chapters 4-6 was covered by a UBC Ethics Certificate of Approval (# H13-03001).

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List of Abbreviations

ALAC	The Andean Association of Cajamarca
BCRP	Peruvian Central Reserve Bank
BHPB	BHP-Billiton
CONACAMI	National Federation of Peruvian Communities Affected by Mining
CSG	Corporate Security Governance
CSR	Corporate Social Responsibility
EIA	Environmental Impact Assessment
EJOLT	Environmental Justice Organizations, Liabilities and Trade
ENP	Effective Number of Parties
FDI	Foreign Direct Investment
FUDIE	Defense Front of Espinar
GDP	Gross Domestic Product
GRUFIDES	Training and Intervention Group for Sustainable Development
GX	GlencoreXstrata
ICMM	International Council on Mining and Metals
IFC	International Finance Corporation
IFI	International Financial Institution
IGO	Intergovernmental Organization
ILO	International Labour Organization
INEI	National Institute for Statistics and Informatics
IMF	International Monetary Fund
LON	London Stock Exchange

MASL	Meters Above Sea Level
MBM	Minera Barrick Misquichilca
MEF	Ministry of Economy and Finance
MINEM	Ministry of Energy and Mines
MINAM	Ministry of Environment
MNC	Multinational Corporation
MYSA	Minera Yanacocha S.A.
NGO	Non-governmental Organization
NYSE	New York Stock Exchange
OCMAL	Latin American Observatory of Mining Conflicts
OECD	Organization for Economic Cooperation and Development
ONPE	National Office of Electoral Processes
PNP	Peruvian National Police
PMC	Private Military Company
SNMPE	National Society for Mining, Petroleum, and Energy
TAN	Transnational Advocacy Network
TSE	Toronto Stock Exchange
UNDP	United Nations Development Programme

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Dedication

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Chapter 1: The Puzzle of Corporate Security Governance in the Socially Responsible Mining Era

“As a result of their extensive reach and resources, corporations have inevitably become involved in issues of peace and security...They increasingly find themselves acting as major players as governance moves...downward to local and sub-national institutions, and sideways into the hands of non-state actors.”
-Banfield et al., 2005

“Large-scale natural resource extraction projects...profoundly transform environments, communities, and economies, and often generate social conflict.”
-Franks et al., 2014

“Peru is an important case of resource conflict, as it experiences alarming levels of protest surrounding the country’s crucial mining sector.”
-Jaskoski, 2014

Mineral commodities play a pervasive role in modern society. From the base metals in electronic devices, cars, and building materials, to precious metals in jewelry products and reserve banks, mined goods are integral to the functioning of developed and developing countries alike. To satisfy rising demand, ores must be extracted *en masse* from the subsoils of distant locales using open-pit technologies, which then are processed on site, and shipped overseas through complex supply chains whereupon they are rendered invisible to most end users. While we in the global North have undoubtedly benefited from the subsoil commodities of the South, communities surrounding industrial mining projects often have a precarious relationship with these resources and the companies that extract them.

As commodity prices skyrocketed throughout the previous decade, so too expanded the intensity and scale of industrial mining activities in Africa, Southeast Asia, Oceania, and Latin America. This boom period created a lucrative development opportunity for resource-rich countries in these regions, with many governments renewing efforts to fuel

economic growth on the heels of their subsoil endowments. Buttressed by liberal investment regimes, mining friendly policies, and technological advancements in exploration and exploitation, mining operations proliferated geographically, frequently into environmentally sensitive areas populated by marginalized communities on the peripheries of state control. Within this context, mining investments have been a double-edged, and often bloodied, sword. While they can contribute to national growth and development, create well-paying jobs for some, and provide much-needed tax revenues to finance government expenditures, they also generate profound existential uncertainties for adjacent communities, as they dramatically transform ecosystems, threaten traditional livelihood activities, alter local economies, and rupture pre-existing social structures. Consequently, over the past decade-and-a-half industrial mining has been an activity fraught with contention and conflict, often boiling over into open violence.

Only a few examples of the physical violence that can accompany industrial mining operations ever grace the front pages of Northern newspapers, however, many episodes of contention between multinational mining companies, host governments, and local communities can be found throughout the global South. For instance, since 2006 persistent clashes between artisanal miners and private security contractors employed by African Barrick Gold have killed more than 65 people and injured 270 at the company's North Mara mine in Tanzania. In 2009, several land defenders from the Guatemalan district of San Marcos were lynched and brutally murdered by individuals linked to GoldCorp's Marlin mine in Guatemala after protesting the operation's environmental impacts. In one of the deadliest acts of state violence in post-Apartheid South Africa, 44 striking miners were massacred by police in 2012 after a wage dispute rapidly escalated at Lonmin's

Marikana platinum mine. The contention and insecurity generated by these large-scale development projects have prompted many multinational mining companies to adopt a conflict-sensitive business model, ostensibly to reduce risks their activities will contribute to violent insecurity in host communities. However, the continued persistence of social conflict and violence in the face of corporate attempts to minimize socio-environmental maladies and participate in dialogue begs important questions regarding the possibilities and limitations of purely private governance mechanisms for achieving peace and security amidst the inherently disruptive process of extraction-led development.

While the aforementioned examples are stark reminders of the brutality with which social conflicts involving extractive industries can escalate, they are nevertheless illustrative of a pernicious trend in many resource-rich developing countries: growth in the level of contention between stakeholder communities, corporations, and the state over the distribution of risks and benefits that accompany the large-scale exploitation of subsoil resources. More importantly, they raise critical questions as to whether conflicts' escalation into physical violence are foregone conclusions, or could be managed more peacefully (perhaps prevented) by the parties involved.

This dissertation examines these issues, focusing specifically on multinational mining companies and their usage of community engagement (which I define in section 1.2.3) as a strategy to manage social conflict with stakeholder communities. In doing so, I critically examine the role of multinational corporations (MNCs) more generally as socially responsible security governors. As I demonstrate, the efficacy of their local level efforts remains an empirically understudied subject. Yet, the phenomenon of social conflict presents researchers with a fruitful opportunity to theorize and systematically evaluate

MNCs' contributions, or lack thereof, to peace and security in the developing country communities in which they operate. While most multinational mining companies now extol the virtues of socially responsible and conflict-sensitive business, this dissertation challenges both scholarly and industry claims regarding the efficacy of private governance in the security realm, drawing attention to the inherent limitations that arise when profit-seeking actors are tasked with providing the public good of security.

I begin this chapter with a brief description of the overarching arguments and contributions of my research. I then outline how community engagement has come to function as the global mining industry's primary local level mechanism of security provision, followed by an explanation for why social conflict presents researchers with an important puzzle for studying the transformative capacity of private governance initiatives in this realm. Finally, I conclude the chapter by sketching the project's research design and data collection methods.

1.1 A brief overview of the main arguments

What are the mechanisms through which MNCs participate in security governance at the local level? With respect to the global extractive industries, why are some multinational mining companies ostensibly more successful than others at managing social conflict? These have become relevant questions with the diffusion of corporate social responsibility (CSR) norms in the global extractive industries. Since 2000, companies have increasingly utilized dialogue and development initiatives to minimize the risk that social conflicts with stakeholder communities will escalate into violent protest. Despite a proliferation of these activities, corporate contributions to security have varied widely.

While the resource curse, environmental scarcity, and global governance literatures have provided critical insights into the nexus between resource-based violence and corporate behaviour, they have yet to theorize and empirically evaluate the *efficacy* of corporations' security governing activities in response to large-scale resource extraction. Here, corporate security governance is defined as the systematic and institutionalized efforts MNCs take to protect individuals from physical violence, with efficacy operationalized as a reduction in the frequency and intensity of social conflict over the lifespan of specific mining operations (see section 1.2.2). To date, empirical research has focused on the factors responsible for MNCs' adoption of a conflict-sensitive business model (Deitlehoff & Wolf, 2010; Haufler, 2010; Oetzel et al., 2007; Wolf et al., 2007), with recent studies analyzing industry structures and associational networks to explain variation in transnational security governance outcomes involving conflict minerals (Haufler, 2016; Haufler, 2010). However, little is known about whether MNCs claiming to be socially responsible have peacefully transformed security outcomes in the communities affected by their operations. This lacuna is curious given the recognition that transnational non-state actors are crucial public service providers in *areas of limited statehood*, which Risse (2011: 4) defines as "those parts of a country in which central authorities (governments) lack the ability to implement and enforce rules and decisions or in which the legitimate monopoly over the means of violence is lacking, at least temporarily."¹

¹ Limited statehood has both territorial and sectoral dimensions. States may only be able to enforce rules and monopolize violence in specific geographic locations (e.g., capital cities and select urban centers), and/or within select policy arenas (Krasner & Risse, 2014).

Using an analytical framework that considers both the security requirements of host societies and the security provision capabilities of corporate agents (which I outline in Chapter 2), I open up the black box of the firm to expose how its internal politics coalesce with the external incentive structures of host communities to affect corporate contributions (or lack thereof) to security. Studies have either treated MNCs as unitary actors, overlooking the intra-firm dynamics responsible for their behavior vis-à-vis civil society (Honke, 2014; Honke & Thauer, 2014; Rosenau et al., 2009), or ignored how the external political economy of contention structures the manner in which civil society responds to MNC activities (Rees, 2009; Rees et al., 2012; Rosenau et al., 2009). This framework provides a more comprehensive understanding of the conditions under which MNCs may succeed or fail at local level security governance in areas of limited statehood in resource-rich developing countries.

I posit two factors can explain variation in the efficacy with which MNCs' may prevent and peacefully manage social conflict. First, MNCs are embedded within a local political economy of contention that influences the propensity and trajectory of social conflicts. This external milieu is understood as a function of the socio-economic and politico-institutional characteristics of host regions and communities; it comprises the basic opportunity structures of protest and political bargaining activities. Second, intra-firm politics will influence MNCs' marginal effect on security. Companies that are better able to align their organizational subunits behind a unified and socially responsible community engagement strategy are more likely to peacefully manage conflicts, whereas traditional firms are more likely to undermine community engagement by utilizing coercion and cooptation.

Using the subnational comparative method, I analyze the efficacy of four companies' community engagement initiatives in three different regions of Peru: (1) Minera Yanacocha in the region of Cajamarca; (2) Minera Barrick Misquichilca in the region of Ancash; and (3) BHP-Billiton and GlencoreXstrata in the region of Cusco. These cases were selected as they exemplify social conflicts of varying intensities (i.e., high-low levels of violence), and involve companies ostensibly committed to socially responsible and conflict-sensitive business practices. For reasons of control, the cases are presented paired comparisons designed to isolate firms' marginal effects on security (see section 1.6.1).

Finally, my research suggests that global governance scholars should critically reflect upon the basis of MNCs' security governing authority. This authority is said to derive from their organizational capacities, resources, and perceived efficacy at implementing programs, achieving objectives, and performing functions desired by those who are governed (Avant et al., 2010; Haufler, 2010). However, as the empirical chapters demonstrate, their financial resources and organizational prowess provide no *ex ante* guarantee that industrial mining operations can be managed peacefully. What's more, even among well-financed and organizationally competent companies, security governance resembles a crisis-driven exercise intended to impose an end to hostilities as they emerge, rather than an effort to prevent the intrinsic violence of open-pit mining and corresponding protests by constructing the conditions for sustainable, positive peace.

As I conclude in the final chapter, the empirical cases highlight the complexities, contradictions, and tensions inherent in purely private expressions of governance. Ultimately, community engagement is a local level manifestation of the broader

phenomenon of CSR. As a voluntary mechanism of self-regulation, CSR exhibits a set of political rationalities and power relationships embodied in neoliberalism. At the most basic level, neoliberalism is a theory of economic and social well-being that contends optimal outcomes are best achieved within a system of free markets and free trade. Beyond basic functions such as the protection of private property, the prevention of market failures, and creating the conditions for fair competition (e.g., antitrust legislation), the state's role in the economy and society ought to be kept to a minimum. While orthodox economists considered it to be a theory of social good, I conceptualize it in accordance with the work of David Harvey (2005: 19), who argues that this social and economic doctrine is also a “political project” designed to “re-establish the conditions for capital accumulation and to restore the power of economic elites.” As this dissertation demonstrates, governance within the contemporary global system has become increasingly privatized, and while it may confer some modest benefits to civil society, it operates according to the strategic interests of private capital. Accordingly, technologies of private governance, such as CSR and its diverse local level manifestations (e.g., community engagement), should be understood as having the first-order motivation of stabilizing investment settings in order to ensure continued capital accumulation, and in the case of mining, continued resource extraction. This thereby calls into question the capacity of private governance to deliver justice, accountability, and sustainable development to vulnerable communities in areas of limited statehood.

1.2.1 CSR and the emergence of community engagement in the global mining industry

While state-centric theories of international relations (e.g., neorealism and neoliberal institutionalism) treat the sovereign territorial state as the locus of governing

power and authority, global governance scholars recognize that order is provided to the anarchic international system through an array of diffuse and non-hierarchical “steering” mechanisms and actors (Rosenau, 1995). In a world of highly mobile human, informational, and capital flows, the ordering and regulatory effects of transnational non-state actors have become increasingly salient. As Avant et al. (2010: 1) observe,

The global policy arena is filled with a wide variety of actors – international organizations, corporations, professional associations, advocacy groups, and the like – seeking to “govern” activity in issue areas they care about. These actors are not merely occupying global structures. They are active agents who want new structures and rules (or different rules) to solve problems, change outcomes, and transform international life.

For example, transnational advocacy networks (TANs) have played an instrumental role in creating and diffusing norms,² which have not only constrained state behaviour, but also shaped their identities (Price, 1995; Finnemore & Sikkink, 1998; Keck & Sikkink, 1998). While states have traditionally been the targets of their activities, MNCs have increasingly become the focus of campaigns (Wapner, 1995; Haufler, 2010). As such, international relations scholars have conceptualized MNCs not as rational utility maximizers *per se*, whose behaviour can be understood exclusively in terms of competition within an amoral marketplace, but also as actors embedded within social structures which respond to logics of appropriateness.³ Like states, they are both takers and shapers of norms and are thereby

² Finnemore & Sikkink (1998: 891) define a norm as a “standard of appropriate behaviour for actors with a given identity.” Norms perform both regulatory and constitutive functions by constraining actor behaviour and constructing new interests and categories of action.

³ According to March & Olsen (2004: 2) “The logic of appropriateness is a perspective that sees human action as driven by rules of appropriate or exemplary behavior, organized into institutions. Rules are followed because they are seen as natural, rightful, expected, and legitimate.”

considered among the governing agents in contemporary global politics (Dashwood, 2014; Dashwood, 2012a; Bernstein & Cashore, 2007).

CSR can be understood as a constellation of norms that collectively comprise a soft international regulatory framework for corporate activities in a given economic area. Cutler et al. (1999) classify it as a *private regime*, which relies primarily on voluntary compliance pull, rather than the threat of material sanction from a body with coercive power over companies. Fundamentally, it encompasses two obligations corporations and their subcontractors have to civil society. The first consists of a duty to avoid and remedy the adverse impacts of their business activities (i.e., the “do no harm” principle), while the second entails a duty to promote social and moral good (Idemudia, 2009). With respect to its substantive expression in the global mining industry, CSR is defined as:

the beyond-law obligations which companies must adhere to because their economic activities affect the social and ecological systems in which they are embedded... CSR is not philanthropy, in the sense that companies can simply choose which charity they might support. CSR denotes an obligation companies have in the economic, social and environmental realms, the three pillars of sustainable development (Dashwood 2012b: 119).

At the local level in areas of limited statehood CSR has prompted MNCs to perform various state-like functions, such as collective goods and service provision, and increasingly their activities have had implications for security.

1.2.2 Corporate security governance

I define *security governance* as the activities of actors imbued with governing authority to provide the public good⁴ of security, wherein security refers to the protection

⁴ Public goods satisfy the criteria of *non-exclusion* and *non-rivalry*. A good is non-exclusionary when no individual can be prevented from its enjoyment and is non-rivalrous when an individual’s consumption of it does not simultaneously prevent others from consuming it (i.e., it is not zero-sum).

of individuals from the threat of physical violence. My conceptualization thereby draws from the human security doctrine, which moves beyond an orthodox/state-centric defense of national borders from external threats, to a people-centered approach in which threats to individuals may emanate from within states. Moreover, I adopt a narrow definition of security that focuses on physical violence (Human Security Report, 2005), rather than the broader definition that securitizes social, economic, and ecological domains (UNDP, 1994). *Corporate security governance* (CSG), then, occurs when profit-seeking actors undertake activities within their domain of operation to reduce the risk of physical violence to civil society.

While non-violent⁵ MNCs are not security organizations *per se*, they may nevertheless act in ways that enhance security for the societies in which they operate and themselves (Avant & Haufler, 2012: 235). For their activities to constitute governance, however, three conditions must be met.⁶ First, their provision of security must be *intentional* and not the inadvertent consequence of some other action, as intentionality is the *sine qua non* of governance in areas of limited statehood (Risse, 2011: 15). For instance, MNCs may hire private security contractors to protect employees and assets, and while their presence may deter illicit activities that endanger the public, such effects would

⁵ The term “non-violent” is meant to disqualify private military companies (PMCs) from my analysis. PMCs are profit-seeking enterprises contracted by principals (e.g., states, corporations, individuals) to provide armed combat and/or security-related services typically conducted by militaries and police. While I henceforth drop the adjective “non-violent”, my analysis implicitly excludes PMCs.

⁶ I treat these characteristics as *INUS conditions*. According to Mahoney (2010: 131), “INUS conditions are parts of larger combinations of factors that are jointly sufficient for outcomes. Thus, while an INUS condition is itself neither necessary nor sufficient for an outcome, it is part of a larger combination of factors that is sufficient for an outcome.”

be mere externalities of an act intended to protect private capital. Companies cannot be credited with security governance when their activities are not aimed at governing.

Following logically from the condition above, activities must be *other-regarding* in that the referent object of security must be one other than the agent providing it. While MNCs have first-order motivations to secure themselves and their mission, they may consider the security of host societies as a means to these ends. Expanding on the aforementioned example, when companies take action to prevent security contractors under their employ from committing human rights abuses in the communities in which they operate, they are treating host societies as a referent object of security. While such activities confer material benefits to MNCs (e.g., enhance reputation, reduce risk) and therefore contain a self-regarding component, they also have an explicit other-regarding civil society dimension, and hence qualify as governance.

Finally, MNCs' activities must be *institutionalized* to constitute security governance, as opposed to ad hoc. This means security governing activities will adhere to established rules, protocols, guidelines, and/or best practices designed to prevent or mitigate conflict and violence. For example, while protection payments may temporarily diminish the risk of violent confrontations between communities and companies, they are reactive measures that violate CSR standards. By contrast, the implementation of formal deliberative mechanisms that enable MNCs to process and respond to community grievances prior to escalation, constitutes a forward-thinking activity recommended by industry. As I demonstrate below, community engagement represents a security governance strategy that satisfies the aforementioned criteria (intentional, other-regarding, and institutionalized).

1.2.3 Community engagement in the global mining industry

With the proliferation of CSR norms throughout the global mining industry since the beginning of the 21st century, *community engagement* has become an increasingly prominent local level security governance activity for MNCs. Broadly speaking, it occurs when a company

actively seeks to understand [its] own role in producing or mitigating violence, pursues relationships with all those affected by violence, develops codes and best practice standards in cooperation with other transnational actors, and makes proactive commitments to reduce the prospect of future violence (Avant & Haufler 2012: 262).

On the ground this has involved: (a) the mediation of specific conflicts that have a probability of escalating into violence or have already become violent; and (b) actions taken to address the causes of conflict and violence in order to make large-scale resource extraction less conflict- and violence-prone. With respect to the former, companies now participate in formal deliberative processes with stakeholder communities in order to identify issues of contention and peacefully resolve disputes. With respect to the latter, companies are now involved in local development, poverty reduction, and environmental protection initiatives (among others) intended to address the factors that predispose and/or trigger mining-related social conflict. An important feature of community engagement within an era in which MNCs are using CSR to stabilize investment settings is the directness of the interactions between MNCs and civil society. Companies no longer interact exclusively with central governments or defer to them to manage the social instability generated by their activities.

In the contemporary global mining industry, the execution of community engagement activities falls under the purview of companies' community relations/CSR

departments. Their purpose is to manage daily interactions with affected populations in order to reduce social, environmental, and operational risks, and to ensure projects generate shared value and sustainable development. These departments are typically staffed with individuals trained in the social sciences and humanities (e.g., anthropology, sociology, political science, law) as opposed to hard sciences (e.g., metallurgy, geology, engineering).⁷ The organizational infrastructure companies have constructed through their community relations/CSR departments, which maintain annual operating budgets, physically exist in the form of site-level offices, and contain trained full-time staff, is an important indication of the institutionalization of community engagement at the local level.

Community engagement has also become part of the informal institutional structure governing the industry, as it is now a recommended best practice within international financing bodies and industry associations. For example, the International Finance Corporation (IFC) – the World Bank’s private sector lending arm and strategic partner in many industrial mining projects – enshrines community engagement in its keystone document, the *Performance Standards on Environmental and Social Sustainability*. The IFC requires companies with which it is involved in joint ventures to implement an array of dialogue and development activities (IFC, 2012). Additionally, the International Council on Mining and Metals (ICMM) – an industry association established in 2001 to improve the sustainable development performance of the world’s largest mining and metals firms – has also enshrined community engagement in its *10 Principles of Sustainable*

⁷ Prior to 2000, companies interacted with stakeholder communities through their engineers, geologists, and mine managers. Exchanges, moreover, were highly informal, plagued by power and informational asymmetries, and occurred in the absence of behavioural guidelines.

Development (ICMM, n.d.). In summation, community engagement is now an institutionalized practice among many multinational mining companies claiming to operate in a socially responsible manner.

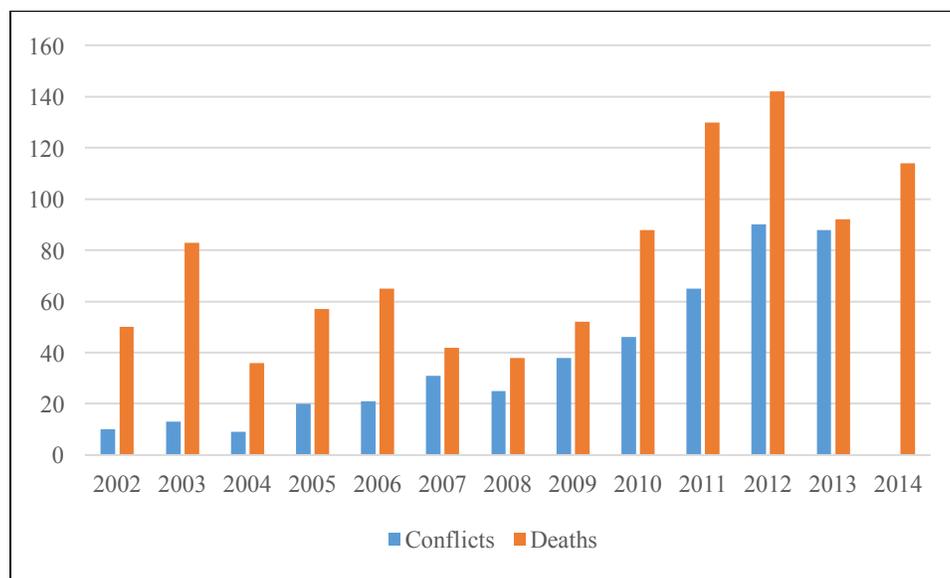
1.3.1 The dilemma of social conflict and violence in the CSR era

The global minerals boom that began at the beginning of the 21st century has increased the intensity (i.e., rate) and extensity (i.e. geographic scope) of industrial mining activities worldwide. As a result, operations have increasingly generated negative externalities as companies seek ores that are difficult to extract. Despite the institutionalization and increasing usage of community engagement as a security governance strategy since 2000 (a mechanism designed precisely to reduce the conflict risks generated by socio-environmental maladies), social conflict and violence involving ostensibly responsible operations have increased over the last decade-and-a-half. For example, the ICMM (2015) recently reported an increase in the number of conflicts from a low of 10 in 2002, to a peak of 90 in 2012. As an industry-driven study these figures are admittedly conservative,⁸ but nevertheless corroborate the observations of non-governmental organizations (NGOs) that report on mining-related social conflict (OCMAL, 2015; EJOLT, 2015). In addition, Global Witness (2014) has shown that the number of killings of environment and land defenders increased between from a low of 57 in 2002, to a high of 147 in 2012. At least 150 of the total 908 reported killings pertained directly to industrial mining activities, with Peru having the highest number among them. Of the 48 Peruvian victims listed in the Global Witness database, 35 were killed during

⁸ ICMM data is based on “publicly available resources” from the Business and Human Rights Resource Centre, and only accounts for conflicts involving open protest, the use of force, and/or legal proceedings against MNCs’ operations.

social conflicts involving industrial mining activities, 32 of which involved companies with publicly stated CSR/sustainability commitments (see Appendix #1). While these descriptive statistics are not meant to infer a causal relationship between community engagement and social conflict and violence trends globally, they nevertheless beg important questions regarding the efficacy of this local level security governance strategy. These aggregate trends are even more puzzling when one considers the overwhelming

Figure 1.1: Mining conflict and death trends globally



Sources: conflicts (ICMM, 2015); deaths (Global Witness, 2014)

material incentives companies have to peacefully manage interactions with stakeholder communities, and the likely positive security contributions they can make to social conflicts as opposed to other, larger manifestations of violence.

1.3.2 Dollars and sense: social conflict and incentives for effective security provision

Social conflict involving industrial mining is a crucial referent from which to evaluate the efficacy of CSG given the inherent characteristics of extractive industries, the monetary costs of inaction for companies, and the type/scale of violence involved. Unlike

manufacturing and service industries, extractive industries are characterized by their asset fixity and sunk costs. MNCs must operate in countries, regions, and/or communities where deposits exist, irrespective of whether subsoil resources reside below host societies with democratic or authoritarian regimes, are developed and secure, or undeveloped and experiencing active conflict situations, or post-conflict transitions. Additionally, MNCs must spend large sums of money in the form of initial capital expenditures to develop the infrastructure required to extract, transport, and process mineral ores (e.g., access roads, power lines, airstrips, housing complexes). These two features of extractive industries suggest that mining companies seldom have the ability to exercise the exit option when their operations become the source of, or are affected by conflict and violence. Accordingly, they must remain and find effective solutions to the security risks they confront.⁹

Second, a strong “business case” exists for mining companies to effectively provide security. While many executives depict community engagement as “the right thing to do” (Dashwood, 2012a), I presume no benevolent motivation on behalf of MNCs, assuming instead that financial considerations undergird their activities. Recent empirical studies have demonstrated the devastating financial costs of inaction or poor conflict management for mining companies. Social conflicts can result in projects losing upwards of \$10 000 US per day during initial exploration stages, \$50 000 per day during advanced exploration, and \$20 million per week at the height of operations (Franks & Davis, 2016; Franks et al., 2014). Additionally, conflict outbreaks can increase companies’ international risk ratings,

⁹ Oetzel et al. (2007) have theorized that barriers to exit can enhance firms’ ability to make credible commitments to peace and security.

thereby preventing them from accessing investment capital for future projects or resulting in the divestment of key institutional investors (e.g., sovereign wealth funds). Normative and moral considerations aside, social conflict and violence are simply detrimental to the bottom-line, and as a result companies have immediate financial incentives to be proactive and effective.

Finally, this dissertation's focus on social conflict is consequential as it involves a type of violence that reasonably falls within mining companies' security governing ambit. Conflict types generally relate to scale, form, and intensity, with a basic distinction between local, national, and international conflicts, and between social and armed conflicts. My focus here is on social conflicts at the local level, which are understood broadly as manifestations of contentious politics in which competing actors make public claims that bear upon others' interests, and who draw upon established repertoires (Tilly & Tarrow, 2006). Violence within this type of conflict is relatively small in magnitude (i.e., deaths, injuries, destruction of property), spatially bound, and temporally circumscribed. While much attention has been devoted to extractive industries and armed civil conflict (i.e., resource curse literature), an analysis of CSG within the context of large scale manifestations of violence would be problematic due to their multifaceted nature, and the causal distance individual companies may have to the violence itself, making it difficult to empirically trace their security governing effects. Localized and low intensity violence directly pertaining to specific economic activities is not only more likely to stimulate corporate participation in security governance (Wolf et al., 2007: 310), but also easier to empirically isolate corporate effects.

Therefore, due to the mining industry's characteristics, the financial costs of inaction, and the type/scale of violence involved, in theory we would expect mining MNCs not only to be relatively proactive, but also effective at social conflict management. However, as the case study chapters demonstrate, these logical expectations are not often met, even among firms claiming to operate in a socially responsible and conflict-sensitive manner. What's more, violent social conflict in relation to industrial mining activities in Peru has increased since the early 2000s, begging an explanation as to why MNCs have been ostensibly ineffective security governors.¹⁰

1.4.1 Industrial mining and the growth of social conflict in Peru

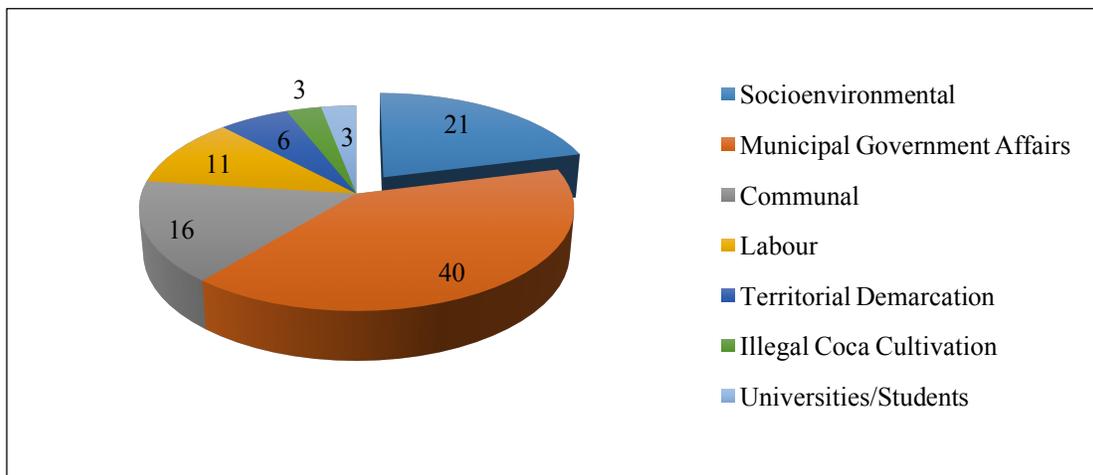
Sadly, Peru has become emblematic of the highly contentious politics of extraction-led development. Since 2004, the country's Ombudsman (Defensoría del Pueblo) has documented a troubling proliferation of violent protests in relation to its crucial mining sector. The Ombudsman classifies social conflict according to 10 substantive issue areas¹¹ of which *socio-environmental* conflicts “center around the control, use and/or access to the environment and its resources” as a result of the country's mining, hydrocarbon, energy, and forestry sectors (Defensoría del Pueblo, 2012: 34). This social conflict type has been the most *frequent* and *intense* of all conflict categories, with those involving industrial mining comprising the overwhelming majority of the socio-environmental sub-type.

¹⁰ My reasons for analyzing the efficacy of CSG within the context of mining-related social conflict thereby approximates the rationale underlying Gerring's (2007: 232) most-likely case design, which he defines as “one that, on all dimensions except the dimension of theoretical interest, is predicted to achieve a certain outcome and yet does not.”

¹¹ Socio-environmental; national government affairs; regional government affairs; local government affairs; communal; labour; electoral; territorial demarcation; illegal coca cultivation; and other (Defensoría del Pueblo, 2012: 34)

Between 2006 and 2011 the Ombudsman reported a 300% increase in social conflicts, registering a total of 540. During this period, 195 people were killed (165 civilians, 30 police) and 2312 injured (1799 civilians, 513 police) (Defensoría del Pueblo, 2012: 7-8, 53). While data are not available for 2012, in 2013 social conflicts killed 9 civilians, and injured 352 people (207 civilians, 145 police) (Defensoría del Pueblo, 2013: 91). Disaggregated data reveal socio-environmental conflicts to be the deadliest, with their number increasing over time. Between 2006 and 2011, they accounted for 41.7% of the total (the largest proportion), and were responsible for a plurality of civilian deaths (73 people) (Defensoría del Pueblo, 2012: 38, 53). Moreover, between 2006 and 2013 their percentage increased from 21% to 64.4% (Figures 1.2 and 1.3). Disaggregated further (Figure 1.4), industrial mining accounts for 70.9% of socio-environmental conflicts.¹²

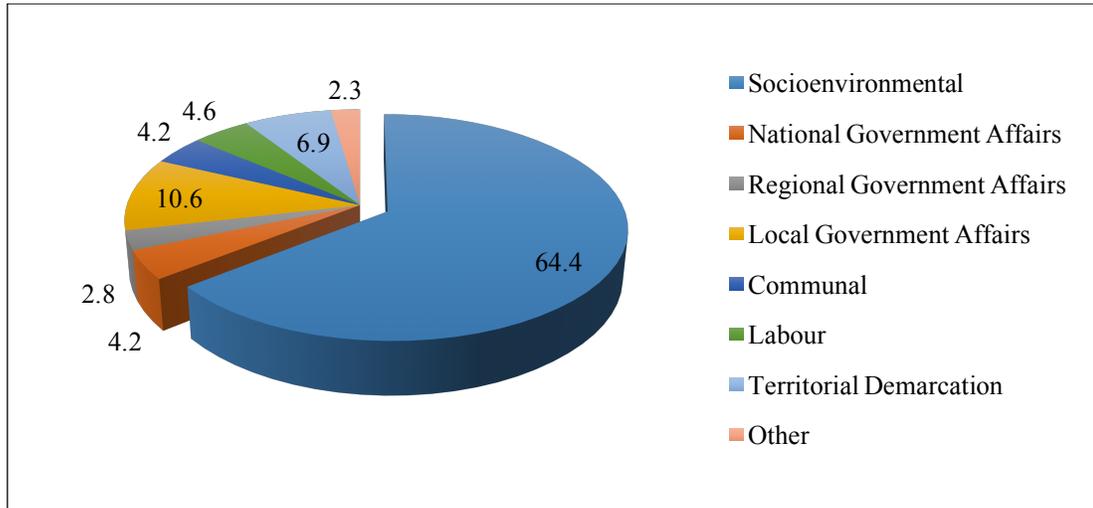
Figure 1.2: Distribution of social conflicts in 2006



Source: Defensoría del Pueblo, 2006: 243, translated.

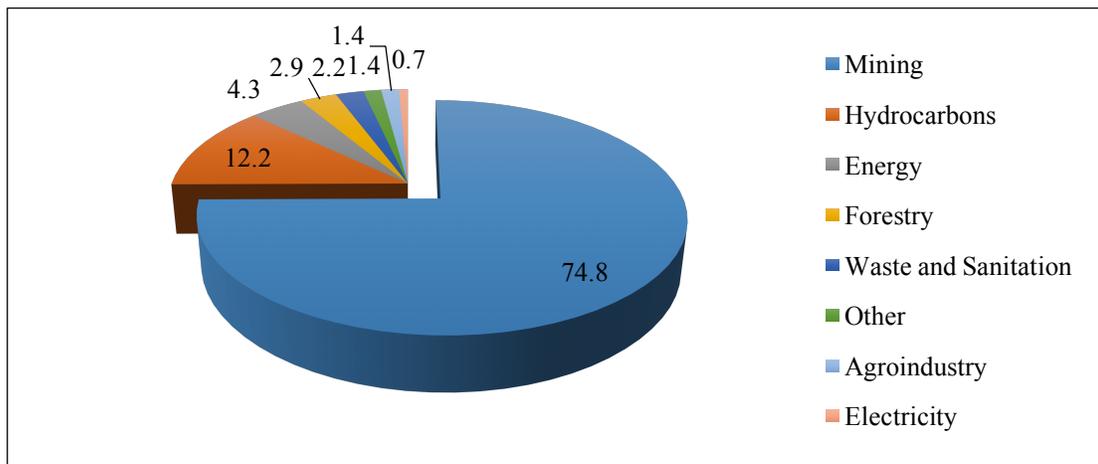
¹² 2013 is the first year for which the Ombudsman has made disaggregated data available for socio-environmental subtypes. Nevertheless, the Ombudsman's Deputy for Social Conflict Prevention suggests that mining activities have comprised the greatest proportion of socio-environmental conflicts since 2000. Interview, 21/03/2014.

Figure 1.3: Distribution of social conflicts in 2013



Source: Defensoría del Pueblo, 2013: 85, translated.

Figure 1.4: Distribution of socio-environmental conflicts in 2013



Source: Defensoría del Pueblo, 2013: 85, translated.

One scholar suggests that social conflict in relation to the country's mining sector may be higher than the data reported by the Ombudsman. Arellano-Yanguas (2011/2012) notes the Ombudsman's socio-environmental coding only accounts for distributional conflicts directly between communities and companies. However, he finds that the global minerals' boom which began in 2000 has also fueled conflicts between local and provincial

governments, with disputes centering around the distribution and usage of rents, and regional investment opportunities (Arellano-Yanguas, 2011/2012). Accordingly, conflicts coded by the Ombudsman as belonging to other types (e.g., local government affairs, labour, territorial demarcation), may in fact, be caused by industrial mining activities.

While the country has experienced growth in social conflict in relation to industrial mining since the early-2000s, their geographic distribution varies. Some regions experience higher levels of conflict than others. For example, Ancash, Ayacucho, Cajamarca, and Cusco are among the regions with the highest conflict levels, while Ucuyali, Tumbes, and Huanuco are among the least (see Appendix #2). Furthermore, Arellano-Yanguas (2011: 627) has found that in mining regions wherein conflict has increased the most, the intensity (volume) and extensity (geographic scope) of mineral extraction have not increased significantly. These factors are methodologically significant as they suggest industrial mining activities have had (a) heterogeneous socio-political effects within Peru, and (b) are likely conditioned by local historical and institutional factors. Thus, it is possible to utilize a controlled, within-nation comparative approach to analyze the efficacy of companies' local level effects.

1.5.1 Research design and methods: controlled within-nation comparisons

I selected Peru as the country for this research project as it enables me to conduct controlled within-nation comparisons across heterogeneous subnational units. Accordingly, this project's research design consists of paired comparisons of four local cases of mining-related social conflict, each of which exhibits variation in conflict intensity (see below). Snyder (2001) and Przeworski & Teune (1982) note that small-n research designs structured around within-nation comparisons of subnational cases can allow

researchers to better control for confounding factors when seeking to measure effects and engage in theory-building. Since social conflicts involving industrial mining activities result from a convergence of factors located at various levels of the global system (see Appendix #3), controlling for confounding effects is paramount when attempting to analyze the efficacy of community engagement as a local level security governance strategy. Therefore, by confining my analysis to a single country, I am able to hold constant various confounding factors at the national level that could plausibly affect conflict outcomes (e.g., onset and intensity) at the local level, such as regime type, regulatory institutions, colonial and conflict histories, and political culture. Therefore, this research design provides me with the methodological leverage required to theorize and isolate the local level socio-economic and politico-institutional factors, and intra-firm dynamics that account for variation in the efficacy of community engagement.

While the subnational comparative method has the advantage of allowing scholars to address the problem of “degrees of freedom” (i.e., too many variables, too few cases) it is nevertheless limited in terms of its ability to produce generalizable findings. Since my subnational cases are drawn from a single country, I refrain from applying my conclusions to the entire population of social conflict cases involving industrial mining activities. Principally, my research methodology does not allow me to generalize beyond cases that do not exhibit a set of scope conditions broadly similar to that of the Peruvian context (e.g., resource-rich developing country; area of limited statehood; liberalized extractive sector regime; decentralized resource governance institutions). As Synder (2001) notes, one way of mitigating the problem of generalizability is to combine within- and between-nation comparisons of subnational cases. However, as I outline below, I have refrained from

doing so given the potentially biased inferences that may result at this stage by drawing upon local conflict cases taken from different national and institutional contexts.

Since this project involves an analysis of local level security governance, the within-nation comparative approach enables me to hold constant the national history of political violence. This would not be possible were the research design structured around sub-national cases drawn from two or more different countries. Despite their many commonalities, resource-rich developing countries have unique historical experiences with respect to insecurity and violence that can condition contemporary manifestations of contentious politics. For example, Peru is classified as a post-conflict society following a two decades-long insurgency waged by the Maoist groups Sendero Luminoso (Shining Path) and the Movimiento Revolucionario Tupac Amaru (Tupac Amaru Revolutionary Movement) that killed approximately 70 000 people (Comisión de La Verdad y Reconciliación, 2003). During this period, state security forces were implicated in extrajudicial killings, arbitrary arrests, and widespread human rights abuses. The country's civil war has left an indelible mark on the contemporary politics of protest.

First, as a thoroughly neoliberal state (see Chapter 3), the central government and security forces have frequently equated acts of political dissent with terrorism. This has increased the likelihood that episodes of contentious politics will result in violence as democratic protest activities become criminalized and subject to militaristic state responses. Second, despite democratic inroads that have been made since the country's transition to democracy in the early 2000s, citizens still struggle to exercise political voice; this is particularly problematic in peripheral Andean regions that were once hotbeds of insurgency. The limited avenues that exist for marginalized groups to formally participate

in the policy-making process has made extra-institutional methods of interest expression (e.g., street protest) commonplace. As Machado et al. (2011: 342) observe, “[t]he last decade...has witnessed a resurgence of protest activity... street protests have become a very salient and meaningful way to achieve certain political objectives and express policy demands.”

Within this context, direct confrontation and/or strategic escalations have become part of civil society’s established repertoire of contention. As Martín Tanaka, professor of Political Science at the Pontifical Catholic University of Peru, observes:

The history of violence has left a legacy on the contemporary political culture in the sense that it has created a political discourse in Peru that is very uncompromising. The population looks at the state as an enemy and thinks it will repress and massacre them...I think that has to do with the history of political violence...it’s left a tradition of distrust in the state...It’s also created forms of protest that can be very radical and belligerent. For example, it’s very common for you to hear during a protest, “We are demanding X, and we are ready to die here until you attend to us.” And this isn’t rhetorical, it’s serious!¹³

These factors are indicative of a unique national history of violence in Peru that is distinct from its mineral-rich neighbours (e.g., Ecuador, Bolivia, and Chile), which have also experienced social unrest as a result of extraction-led development. Thus, I have refrained from comparing subnational cases drawn from different countries as their respective national histories of political violence could bias causal inferences. For reasons of control, I have elected to focus on subnational cases drawn from a single country.

1.5.2 Diverse case selection: low to high levels of conflict

This project examines 4 local level cases of social conflict that were selected in accordance with Seawright & Gerring’s (2008) *diverse case* method. This case selection

¹³ Interview 20/03/2014, translated from Spanish.

technique maximizes the representativeness of the small-n sample within the broader population while providing a useful degree of variation on the dimensions of theoretical interest. This strategy requires the researcher to choose cases that exhibit a full range of values on the dependent variable. For those that are continuous (i.e., non-dichotomous), the researcher should select cases at both ends of the spectrum (i.e., high and low), and if possible, at mean or median values.

Accordingly, I chose cases that exhibited a full range of values with respect to conflict intensity, suggesting varying degrees of security governing efficacy by the companies involved. Through pre-fieldwork desk-research I was able to assess this using the following metrics: (a) the number of different social conflict episodes over the lifespan of specific mining operations; (b) the number of people killed and injured during escalation episodes; (c) the approximate value of public/private property destroyed during escalation episodes; and (d) the number of states of emergency declared. Detailed fieldwork enabled me to further refine my initial coding.

Finally, cases were selected so as to maximize control for operational- and company-level characteristics that could also affect conflict outcomes. All cases involve open-pit mining operations located at medium-high altitudes (2000-5000 meters above sea level) where social conflict risks are highest (Haslam & Tanimoune, 2016). Additionally, all involve companies that would be most likely to participate in security governance given their adherence to socially responsible business practices.¹⁴ There is little sense in examining the security governing effects of MNCs that are not ostensibly advanced in their

¹⁴ As Haufler (2016) has observed, the global mining sector is an important case for analyzing issues of security governance, as it was one of the first industries to have firms participate in international multi-stakeholder CSR initiatives.

uptake of ethical business norms (Honke, 2014). As Wolf et al. (2007) note, large MNCs that are visible to international audiences are most likely to engage in security governance due to the resources they can devote to non-core business activities, and their vulnerability to reputational harm. Market capitalization serves as a proxy for firm size, while international stock listings serve as a proxy of their visibility. I follow Haslam & Tanimoune's (2016) categorization of firm size: juniors (US\$ 0-0.75 billion), mid-tier (\$0.75-5 billion), majors (above \$5 billion). Data on market capitalization were drawn from the mining financial website, www.kitco.com, and refer to the majority shareholder of each operation. BHP-Billiton and GlencoreXstrata are the world's first and second largest base metals firms respectively, while Barrick Gold Corporation and Newmont Mining Corporation¹⁵ are the world's first and second largest precious metals/gold mining firms respectively. All four are classified as mining majors and listed on international stock exchanges, and participate in a variety of international CSR initiatives (Dashwood, 2014: 572).

Table 1.1: Case values

Operation (type)	Elevation (meters above sea level)	Company (stock listing)	Market capitalization (billion USD)	Conflict intensity
Conga (open pit)	3700 masl	Minera Yanacocha (NYSE)	13	high
Tintaya (2) (open pit)	4100 masl	GlencoreXstrata (LON)	30	high-medium
Pierina (open pit)	4100 masl	Barrick Gold Corporation (TSE)	15	medium-low
Tintaya (1) (open pit)	4100 (masl)	BHP-Billiton (NYSE)	41	low

¹⁵ Denver-based Newmont Mining Corporation is the majority owner of Minera Yanacocha with a controlling share of 51.35%.

1.5.3 Hypothesis testing: process tracing

Following Bennett & Elman's (2006) recommendation that qualitative case study¹⁶ methods present researchers with appropriate tools for studying complex phenomena, I utilize *within-case process tracing* as the primary method for testing my hypotheses regarding the determinants of the efficacy of CSG. Process tracing involves an examination of diagnostic pieces of evidence, known as causal process observations, which support or overturn possible causal explanations (Bennett, 2010; Brady, 2010). This method of analysis required that I search for empirical evidence at a finer level of detail than that initially posited by my hypotheses. While process tracing details sequences of discreet events, it is not the same as historical description. Rather, it is guided *ex ante* by the search for observable implications of a series of theoretically predicted steps one would expect to observe if cause and effect were linked by a given process (Checkel, 2008: 115). Data for the aforementioned cases were gathered through interviews and document analysis during 11 months of intensive fieldwork.

1.5.4 Data collection

I collected data from a combination of primary and secondary sources. Primary data were drawn from 116 semi-structured interviews with elite and non-elite informants that I conducted while living in Peru between February and December of 2014, and on a follow-

¹⁶ According to Gerring (2004: 342) case studies are “the intensive study of a single unit for the purpose of understanding a larger class of (similar) units.” Case studies have the advantage of allowing researchers to account for the complexity of real world situations, and develop a nuanced understanding of them (Flyvbjerg, 2006). Importantly, case studies can enable researchers to better deal with casual complexity - the notion that many different paths can lead to the same outcome, or, that several outcomes could possibly emerge from the same cause (Bennett & Elman, 2006).

up trip in February 2016 (103 of which were conducted in Spanish). Elite interview informants consisted of: site-level community relations and CSR department managers; employees from national and regional detachments of the Peruvian Ombudsman's office; employees from national and regional detachments of the Peruvian Ministry of Energy and Mines; academics and journalists; and representatives from NGOs working in mining communities. I selected these informants through purposive sampling techniques.¹⁷

Non-elite interview informants consisted of: past and present local elected officials; grassroots community organizers/activists; and local community members who participated in episodes of resistance/protest to mining operations, and who may have been witnesses to, victims of, and/or perpetrators¹⁸ of violence during episodes of mining-related social conflict. I selected these informants through chain/snowball sampling techniques.¹⁹ While this sampling method was vulnerable to information bias, as individuals may have referred me to others who possessed opinions similar to their own, it had the advantage of allowing me to access individuals who would have otherwise been difficult, if not impossible, to contact through random sampling techniques. It is important to note that I conducted interviews with an array of elite and non-elite informants representing civil society, the state, and private capital, and who had both competing interests and differing perspectives on social conflicts. This helped counteract systematic bias in the data.

I collected secondary data from reputable national newspapers, mining firms' annual

¹⁷ This refers to a type of sampling wherein the interview subjects are "deliberately selected for the important information they can provide that cannot be gotten as well from other choices" (Maxwell, 1998: 87)

¹⁸ Informants from this sub-category of the non-elite interview pool were never asked whether they committed acts of violence during mining-related social conflicts.

¹⁹ This refers to a type of sampling wherein "the sample evolves of its own accord as data are being collected" (Teddlie & Yu, 2007: 800).

sustainability reports, international and Peruvian NGO reports, and the Peruvian Ombudsman's annual reports on social conflict. The diverse, and sometimes competing, sources of information allowed for better validation of the data through cross-verification.

1.6.1 Chapter organization

This dissertation is organized as follows. Chapter 2 begins by situating this research project within the literatures on natural resources and conflict, and global governance. Following this, I outline my analytical framework and hypotheses. Chapter 3 provides national context for the local case studies through a descriptive overview of the regulatory framework governing contemporary mineral extraction in Peru. As I argue, contemporary rules governing the industry have been deeply influenced by neoliberal economic policies, which have imbued private capital with structural power over the state. While this has restricted the role of the central government in society, it has also provided MNCs with a greater *de facto* governing role and authority at the local level. I argue, moreover, that this is not unique to Peru, but illustrative of the rules governing industrial mining activities throughout the developing world in the wake of structural adjustment.

Chapters 4, 5, and 6 comprise the empirical sections of the dissertation. These chapters are intended to be read as paired comparisons designed to isolate the marginal effects of firms' local level security governance activities following the logic of a most similar systems comparison. Chapter 4 examines social conflict at Minera Yanacocha's Conga and Yanacocha gold mines in the region of Cajamarca, while Chapter 5 examines social conflict at Minera Barrick Misquichilca's Pierina gold mine in the region of Ancash. As I demonstrate, these two companies diverge in terms of the efficacy of their community engagement activities, despite the fact that they are both mega-gold mining projects with

similar social and environmental impacts, and situated in two regional jurisdictions with broadly similar political economies of contention. The former's operations have produced more frequent and violent protest episodes due to Minera Yanacocha's crisis of governing legitimacy, while the latter's operation has produced fewer instances of violent protest due to its willingness to engage in dialogue and development with a broad cross-section of stakeholder communities. Chapter 6 examines social conflict at the Tintaya copper mine in the Espinar province of Cusco region. While this case involves conflict at a single operation, the Tintaya mine has been owned by two foreign multinational mining conglomerates over its 30-year lifespan, BHP-Billiton and GlencoreXstrata. This chapter holds constant the region's political economy of contention while utilizing temporal variation in mine ownership to infer firm-level effects on security governance outcomes. I trace the most violent episode of social conflict to a breakdown of governing legitimacy under the ownership of GlencoreXstrata. Unlike its predecessor, BHP-Billiton, GlencoreXstrata greatly restricted the scope of dialogue and development, while relying more overtly on coercion and cooptation in response to social unrest. Finally, Chapter 7 summarizes the main empirical findings noting the inherent shortcomings of CSG, and critically reflects on MNCs as socially responsible governing agents within the broader context of a neoliberal global economy.

Chapter 2: Analyzing the Efficacy of Corporate Security Governance

*"For good or ill, transnational actors are participants in security governance."
-Avant & Haufler, 2012*

*"A lot of the time we have a tendency to homogenize mining companies, but this is problematic. There are differences and nuances in their behaviour, and they adopt different strategies towards communities. Some companies are much more conservative and "harder" with populations, while others are more willing to make changes and engage peacefully."²⁰
-Jose De Echave, Director CooperAcción, Lima, Peru*

While aggregate data depict a troubling rise in social conflict and violence in relation to industrial mining activities since 2000, at the operational level these pernicious outcomes are by no means guaranteed. Some multinational mining companies are more successful at managing social conflicts than others, prompting an explanation as to why they are ostensibly more effective security governors. In this chapter I theorize the factors that explain variation in the efficacy of MNCs' efforts to manage social conflict. To contextualize my analytical framework and hypotheses I begin with a critical examination of scholarship on natural resources, violence, and private governance.

I advance three arguments throughout this chapter. First, despite providing critical insights into resource-conflict linkages, the environmental scarcity and resource curse literatures have yet to offer sufficiently nuanced conceptualizations of social conflict involving large-scale industrial mining operations. These literatures typically depict resource-conflict linkages as operating at the level of the state, with armed civil conflict as the dependent variable. Importantly, they dichotomize conflict as driven by resource scarcity or abundance, and advance simplified causal models and universal relationships that do not neatly apply to specific local level cases. While informative, such broad stroke

²⁰ Interview, 05/05/2014, translated.

characterizations offer limited insight into the protracted, and periodically violent conflicts surrounding industrial mining operations, which are driven by a multitude of non-resource-related factors, in addition to resource scarcities and abundance.

Second, despite the recognition that MNCs often act as security governing agents in areas of limited statehood, scholars have yet to systematically analyze the efficacy of their governing activities. While the literature has operationalized the efficacy of the private governance according to *program implementation*, this does not facilitate a sufficiently clear measure of the local level impacts of corporate activities intended to mitigate violence. Thus, I operationalize efficacy according to the frequency and intensity of violent escalations of social conflict over the lifespan of firms' operations. What's more, the few empirical studies that have analyzed the efficacy of CSG have drawn from disparate anecdotal case studies, or utilized comparative research designs that match cases from dramatically different national and conflict contexts, making it difficult to precisely isolate the marginal effect of firms' activities.

Finally, I argue that firms' marginal effect on security can be best understood using an analytical framework that accounts for the generic conflict risks of host regions along with the organizational politics of corporate security provision. As noted in the previous chapter, mining-related social conflicts are manifestations of contentious political interactions between MNCs, civil society, and the state. While MNCs can take unilateral action to manage conflict, the political economy of contention within which they are embedded will also affect conflict propensities and trajectories. As such, I examine how firms' organizational politics interact with the external socio-economic and politico-institutional milieu to affect their security governance outcomes.

I argue that MNCs can peacefully influence the trajectory of social conflicts through two avenues. First, companies can reduce the frequency of violence by utilizing community engagement as an opportunity to reduce asymmetries in the distribution of risks and benefits stakeholder communities confront as a result of extraction-led development in areas of limited statehood. By preempting the salient factor that predisposes industrial mining operations to situations of social conflict, companies can thereby mitigate the potential for violent escalations. Second, companies can ensure that social conflicts which have emerged transpire peacefully by reducing their usage of both coercion and cooptation. As I outline below, MNCs may choose from a range of strategies to manage protest in addition to community engagement. However, heterogeneity in their security outputs undermines their legitimacy as socially responsible governing agents, and hence the efficacy of their preferred dialogue and development activities, as legitimacy is the prerequisite for effective public goods provision by non-state actors.

2.1.1 Resource and conflict: scarcity vs. abundance, causal mechanisms, and scales of violence

Since the end of the Cold War, two dominant research paradigms have sought to explain resource-conflict linkages: *environmental scarcity* and *the resource curse*. The former examines how diminishing renewable resources affect violence, utilizing primarily qualitative research methods, such as single case studies. The latter focuses on abundant non-renewable resources, using primarily cross-national statistical analyses. While an exhaustive examination of these literatures is beyond the scope of this dissertation (for a full review see, Koubi et al., 2013; Ross, 2015), I briefly explore each, as they commonly

inform assumptions regarding violent social conflict involving extractive industry operations.

2.1.2 Environmental scarcity

Environmental scarcity theorists adopt a neo-Malthusian rationale to the resource-security nexus. In his *Essay on the Principle of Population*, English cleric and scholar Thomas Malthus hypothesized that socially destabilizing conflict would result as population growth outpaced the carrying capacity of earth's ecological systems. Accordingly, these scholars argue that reductions in the availability²¹ of life and livelihood sustaining resources, such as freshwater, cropland, livestock, etc., can form the basis of social grievances that catalyze violent insurrection (Homer-Dixon, 1991; Homer-Dixon, 1994; Baecheler et al., 1996; Homer-Dixon & Blitt, 1998; Homer-Dixon 1999; Kahl, 2008). However, these scholars stress that resource scarcity is neither necessary, nor sufficient for violence, but rather, interacts with other variables, such as political marginalization, unfulfilled expectations of economic development, and ethnic fractionalization. Moreover, the conflict inducing effects of scarcities are not regarded as deterministic, as violence may be averted by factors such as human ingenuity, societal adaptation, and cooperation (Homer-Dixon, 2002; Dinar et al., 2007; Brochmann, 2012).

While scholars unanimously agreed renewable resource scarcities did not affect interstate conflicts, they were discovered to have played salient roles in diverse cases of

²¹ According to Homer-Dixon (1999: 15), three types of resource scarcities can catalyze conflict: demand-induced, supply-induced, and structural. Demand-induced scarcity refers to the exogenous effects of population growth on fixed resources. Supply-induced scarcity refers to the exogenous effects of environmental change or a degradation in the available stock of resources for a fixed population. Finally, structural scarcity refers to the unequal distribution of resources that result from political, socio-economic, and/or institutional power imbalances.

subnational violence such as Chiapas (Howard & Homer-Dixon, 1998), the Gaza Strip (Kelly & Homer-Dixon, 1998), and Kenya (Kahl, 1998). However, recent efforts to move beyond a few anecdotal findings and study the effects of scarcities cross-nationally have generated ambiguous findings (Hague & Ellingsen, 1998; Hendrix & Glaser, 2007; Thiesen, 2008; Ostby et al., 2011).

The principle ontological criticism of this literature has pertained to its under-specification the level of analysis (Gleditsch, 1998). While scarcities operated at the subnational and individual levels, the conflict outcomes under examination occurred at the national/societal level, with the state as the referent object in causal models. However, it remained unclear how individual and collective grievances regarding renewable resource scarcities aggregated upwards to affect large manifestations of violence against the state.

As Deligiannis (2012: 84) has recently argued,

the impacts of scarcities are not inherently or exclusively felt at the state level. Scarcities initially affect individuals, families, and communities...before being translated into broader state or societal effects. Localized immiseration or social impacts may result in little or no national impacts. Conflicts may happen at levels far below the level needed to pull a state into anarchy, or to threaten the integrity of the state or its rulers.

Thus, a recent amendment to the environmental scarcity thesis suggests conflicts are likely to be confined to highly localized and protracted phenomena, such as protests and communal violence generated by the environmental stresses of large-scale development projects and industrial activities (Ibid). Accordingly, newer scarcity-conflict models, such as Deligiannis' (2012) "household livelihood framework" can provide apt insights into social conflict inducing effects of industrial mining operations. With the expansion of the extractive frontier into environmentally sensitive areas, such as moors, highland water reservoirs, and glacier-fed headwaters, that are populated by vulnerable subsistence groups,

such as peasant and indigenous communities, industrial mining activities can place immense strain on pre-existing life and livelihood sustaining activities. As Franks et al. (2014) observe, “Large-scale natural resource extraction projects...profoundly transform environments, communities, and economies, and often generate social conflict.” Assuming natural resource dependent households can overcome the collective action problem, open (and potentially violent) conflict may result.

However, while violent social conflicts involving industrial mining activities are frequently triggered by the real or perceived degradation of life and livelihood sustaining natural resources (e.g., water, land, livestock), portraying them as scarcity-driven risks caricaturing the complex convergence of causal factors involved. For example, recent studies have found that material distributional issues associated with the exploitation of high value minerals during boom periods predispose industrial mining operations to situations of conflict (Le Billon et al., 2016; Franks et al., 2014). Thus, the conflict-inducing effects associated with resource abundance must also be taken into consideration.

2.1.3 The resource curse

The “resource curse” is an umbrella term for the array of adverse macro-developmental effects subsoil endowments have on resource-rich/dependent developing countries. The term was popularized by Gelb (1988) and Auty (1994) who found resource-rich countries experienced poor growth performance compared to their resource-poor counterparts.²² Explanations range from high exposure to commodity price volatility (van

²² While early scholarship suggested negative unconditional effects of resource abundance/dependence on macro-economic performance (Sachs & Warner, 1995), contemporary studies find effects to be mediated domestic institutions and policies (Humphreys et al., 2007; Ross 2012; Saad-Filho & Weeks, 2013).

der Ploeg & Poelhekke, 2009), Dutch Disease (Mikesell, 1997), and rent seeking (Auty, 2001), to low levels of democracy (Aslaksen, 2010), patriarchal institutions (Ross, 2012), and civil war (Collier, 2007). Most studies have found positive effects of subsoil resources on intrastate violence, but caution that this relationship is conditioned by the type of subsoil asset (i.e., fuel vs. non-fuel minerals), the characteristics of deposits (i.e., point source vs. diffuse, onshore vs. offshore), and the proximity of deposits to centers of state power (i.e., distant vs. proximate) (Le Billon 2001a; Humphreys, 2005; Ross, 2006; De Soysa & Neumeyer, 2007; Le Billon, 2007).

Resource curse scholars have identified three causal mechanisms operating at the state level to explain civil conflict/insurgency.²³ First, onshore fuel and non-fuel minerals represent a potential source of income for rebels to finance campaigns (Collier & Hoeffler, 2005). According to the “looting rebels” model, armed groups can bankroll operations through the sale of alluvial gemstones, or the targeted extortion of onshore mining, oil, and gas companies unable to flee political instability. Second, states that derive a significant portion of their budgets from natural resources are attractive targets for rebel groups (Fearon & Laitin, 2003). The “state capture” model assumes a monotonic relationship between resources and armed conflict; as governments obtain a greater share of their revenue through the export of high-value minerals their vulnerability to being overthrown increases concomitantly.²⁴ Finally, resource-rich regions far from national centers of

²³ No consensus exists on these causal mechanisms (Ross, 2015), likely reflecting the heterogeneity of national contexts and timeframes considered by cross-national studies.

²⁴ Collier & Hoeffler (1998) have challenged this model, arguing for a non-monotonic relationship (i.e., an inverted U-shape curve). Resource wealth may increase conflict likelihood to a point, however, after a certain threshold is passed the likelihood decreases, as the state can better finance its coercive apparatus and/or purchase the loyalty of potential belligerents.

power that are dominated by a single ethnic group may make separatist conflicts more likely (Collier & Hoeffler, 2005; Ross, 2006; Sorens, 2011). According to the “sons-of-the-soil” model, mineral wealth generates incentives for separatist conflicts by increasing the value of sovereignty (Ross, 2006).

Generally speaking, this literature has focused on the dependent variable of armed civil conflict. However, civil conflicts are relatively rare events, prompting scholars to call for a re-examination of the most common types of violence associated with subsoil resources (Cuvelier et al., 2014; Koubi et al., 2013). As Bebbington et al., (2008: 893) note,

Many conflicts are instead socio-environmental struggles over the control of space, the governance of territory, access to land and water resources, the defence of human and citizenship rights, and dissatisfaction over the distribution of mineral rents.

Similar to recent developments in the scarcity literature, the resource curse literature has begun to direct its attention to small-scale and localized forms of conflict, such as demonstrations, riots and communal violence. Recent statistical studies suggest the existence of a subnational resource curse. Within the context of weak institutions, the immense rents generated over the course of the recent mineral commodity boom period (2000-2011/12) have caused an upsurge in social conflict (Ponce & McClintock, 2014; Arellano-Yanguas, 2012/2011). While scholars recognize the mobilizing effects of environmental/scarcity frames, these conflicts are deemed to be driven by actors’ desires to capture a greater share of the legal and illegal material goods that accompany industry activities (e.g., royalties, bribes/grease payments, jobs, investment opportunities).

While the dominant literatures capture various dynamics of violent social conflict involving industrial mining activities, such as grievances over reduced access to freshwater

and demands for a greater share of the material benefits industry activities produce, their prevailing conceptualizations risk explaining mining-related social conflict according to a series of generic factors and generalizable claims that do not always capture the specificities of individual cases. Case-specific factors, such as local histories, micro-politics, and unique corporate entities with different approaches to conflict management, must be considered when conceptualizing mining-related social conflict.

2.1.4 Towards a location-specific conceptualization of social conflict and industrial mining

Critics of the environmental scarcity and, in particular the resource curse, argue that the findings of cross-national studies have had limited explanatory value when applied to specific national cases of resource-related conflict, much less scale-down to the local level to adequately comprehend subnational dynamics (Le Billon, 2001a; Peluso & Watts, 2001; Di John, 2007; Horowitz, 2009). In order to avoid the potential pitfalls of superimposing the aforementioned paradigms on to the cases examined in this dissertation, I adopt a location-specific conceptualization of resource-related violence.

While environmental scarcity/abundance and greed/grievance factors are present within my analyses, I recognize the salient roles of non-resource-related historical, political, and institutional factors. As Horowitz (2009) observes multiple and interlinked social variables determine the expression of and responses to resource-based violence at the local level. What's more, a recent review security issues related to industrial mining activities has found social conflicts to be the result of unique combinations of at least 17 causal factors, many of which are unrelated to scarcity or abundance (Le Billon et al., 2016).

Finally, and most importantly, a location-specific analysis is better suited to an analysis of companies' agentic role in resource-related violence. The environmental scarcity and resource curse literatures have largely ignored the importance of powerful corporate actors in determining conflict trajectories. Thus, by moving beyond the simplified general models of the environmental scarcity and resource curse literatures, I can better comprehend the nuanced factors involved in conflict onset and expression. If MNCs are to peacefully manage their operations, their community engagement activities must respond appropriately to the unique permutations of predisposing and triggering factors involved in specific episodes of social conflict escalation.

2.2.1 MNCs and violence: malevolent capital vs. business for peace

MNCs play an ambiguous role in conflict-prone societies; they may contribute to and financially benefit from violence, or conversely, act as key partners in peace and security. Below I examine some competing observations on corporations and violence. While corporate complicity in intrastate conflict has been empirically documented, the nascent business for peace literature has been largely prescriptive. Empirical research within this strand has thus far been limited to explaining the adoption of conflict-sensitive business. Relatively little is known about the effects that their specific activities intended to govern security have had on host societies. Accordingly, I outline hypotheses to explain variation in the efficacy with which mining companies' community engagement strategy can peacefully manage social conflict. I seek to move beyond essentialist characterizations of MNCs as "good" or "bad", and towards an agnostic analysis of the conditions under which socially responsible MNCs affect security in host societies.

2.2.2 Corporations and insecurity

MNCs can become deeply entrenched in conflict networks. Their contributions to violence may occur on an individual basis at the local level, or collectively at the level of the state and society through their involvement in wartime economies. What's more, companies may even benefit financially from operating within conflict-prone societies or active civil war zones in light of the entry barriers that are generated for potential competitors, the weaker bargaining positions of governments under siege, the cheaper value of local labour, and the necessity to maintain secrecy in licensing processes (Guidolin & La Ferrara, 2007).

Individually, MNCs have contributed directly to intrastate violence through the usage of abusive private security contractors (Pegg, 1999; Watts, 2007), and by allowing state security forces to utilize company property and infrastructure to launch strikes against civilian targets (Idahosa, 2002; Pegg, 1999). They have also contributed indirectly to violence by acting as targets of extortion – a heightened risk for MNCs in the extractive industries given the difficulties of fleeing violent situations. For example, kidnappings of oil workers by the Movement for the Emancipation of the Niger Delta have become an integral part the political economy of Nigeria's oil-based insurgency (Watts, 2007). In Colombia, paramilitary and rebel groups that have been responsible for massacring civilian populations have been financed by protection payments from oil and gas companies (Dunning & Wirpsa, 2010; Suarez, 2002).

Collectively, MNCs contribute indirectly to civil conflict through their participation in wartime economies. For example, companies have provided financial support to repressive regimes via tax payments and royalties (Haufler, 2001), and also financed rebel

groups who have increasingly turned to illicit trading networks of high value resources to bankroll insurgent activities (Le Billon & Levin, 2009; Collier & Hoeffler, 2005; Kaldor, 1999; Le Billon 2001b). What's more, as wartime economies become increasingly structured around the trade of natural resources and/or illicit goods, war profiteering can become an end in and of itself for companies.

While MNCs have demonstrated varying degrees of complicity in violence, an emerging body of literature argues that they are also key partners in peace and security. As Bennett (2002: 394) observes:

the mounting number of conflicts occurring in regions where multinational corporations (MNCs) operate have prompted international organizations, the media, human rights groups, social investors and consumers, as well as some corporate executives, to discuss the responsibility MNCs share in promoting peace and avoiding conflict. Corporate social responsibility and business ethics groups assert that corporations have an interest in leveraging their skills and impact to promote stability in their areas of operation, not only because it is the right thing to do, but also because it makes good business sense.

Accordingly, scholars, policymakers, and activists have begun to re-conceptualize the security roles of MNCs in conflict-prone societies.

2.2.3 Knights in corporate armor

While the philosophical origins of business' peacemaking role are deeply embedded in liberal (international relations) theory²⁵, the recent proliferation of security governing activities by MNCs is uniquely attributable to the ideational and material terrain of the post-Cold War international system. Scholars have found that the diffusion of CSR

²⁵ Miklian & Schouten (2014: 3) trace its normative roots to the intersection of two variants of liberal peace theory: capitalist peace and positive liberal peace. The former assumes business activities inherently contribute to security through growth and interconnection, irrespective of institutional context. The latter assumes free markets and private capital can induce insecurity therefore require liberal institutions (e.g., democracies, IGOs, global civil society, etc.) to harness their potential.

norms, in combination with the retrenchment of the state's role in society following the period of neoliberal structural adjustment the developing world, explain the recent proliferation of security governing activities by MNCs (Deitlehoff & Wolf, 2010; Haufler, 2010; Wolf et al., 2007). MNCs from the global extractive industries were particularly effective targets of NGOs seeking to make both the moral and business cases for conflict-sensitive business, given the robust correlations between subsoil resources and intrastate violence. While the proliferation of CSG activities has been the subject of empirical study, relatively little is known about the empirical effects of specific activities in host societies.

Evaluating the efficacy of CSG is critically important given that MNCs exercise “capacity-based” governing authority in the security realm (Avant et al., 2010). This authority is said to derive “from their expertise, resources, and *perceived efficacy*...They have resources in the form of personnel, organizational capacity, and money that other actors lack. And they are often viewed as *being very effective at implementing programs and achieving goals*” (Haufler, 2010: 107; my emphasis). However, little is known of whether their organizational endowments have, in fact, translated into demonstrable improvements in security for host societies.²⁶

To date the *efficacy* of private governance has been operationalized according to policy formation and program implementation, or the translation of global norms into corporate procedures (Rees et al., 2012; Liese & Beisheim, 2011; Ruggie, 2004; Haufler, 2001). While indicative of norm internalization, this operationalization does not allow scholars to precisely evaluate the effects that specific corporate activities to intended to

²⁶ Other bases of governing authority include: institutional, expert, delegated, and principled (see Avant et al., 2010: 9-14).

reduce insecurity have had in host societies at the local level. Accordingly, I evaluate the efficacy of community engagement according to its ability to reduce in the *frequency* and/or *intensity* of violent escalations of social conflict over the lifespan of a firm's operation. This operationalization facilitates a critical evaluation of the basis of MNCs' governing authority. Capacity-based authority is implicitly outcome oriented; in other words, it denotes an assumption that a governing agent's organizational endowments can, in fact, lead to empirical improvements of security situations (i.e., 'achieving the goal' of security provision).

2.3.1 Theorizing the efficacy of community engagement: conflict risks and corporate outputs

The efficacy with which multinational mining companies peacefully manage social conflict can be understood as a function of the local political economy of contention within which firms are embedded, and the intra-firm politics that influence their behavior vis-à-vis civil society. Social conflict risks vary sub-nationally, consequently shaping the possibilities and limitations of MNCs' security governing efforts. Since civil society actors strategically respond to constraints and opportunities when engaging in contentious political activities (Tilly & Tarrow, 2006), stakeholder communities' propensity to utilize (violent) protest will thereby be shaped by local socio-economic and political-institutional factors. Nevertheless, as organizational entities imbued with agency, companies can affect conflict trajectories, not only through the negative externalities associated with industry activities, but also through efforts to manage community-firm relations. Internal factors such as corporate culture and power structures condition how and when companies utilize dialogue and development to manage social conflicts. Accordingly, I investigate the

coalescence of these interrelated security domains, and argue that analysis of their interplay can prove fruitful for explaining variation in the efficacy of community engagement.

2.3.2 Amending the existing model of effective non-state service provision

Krasner & Risse (2014) theorize the efficacy of non-state service provision in areas of limited statehood to be a function of three factors: legitimacy, institutionalization, and task complexity. Legitimacy is the *sine qua non* of effective non-state service provision, and refers to the degree to which the local target audiences addressed by the governing agent and its service provision outputs view them as normatively appropriate. Institutionalization refers to the degree to which service provision activities are formally embedded within organizational structures of non-state actors and supported by adequate resources. Finally, task complexity refers to the sophistication of the service being provided (i.e., inherent properties), based on the number of interventions required and actors that must be mobilized to deliver it.

This general model has been applied to explain the efficacy of mining companies' security governing activities in the Democratic Republic of Congo (DRC) and South Africa (Honke & Thauer, 2014).²⁷ While these scholars hold limited statehood and task complexity constant to trace the effects of legitimacy and institutionalization, their comparative research design makes it difficult to evaluate MNCs' marginal effects given the dramatically different national, institutional, and security contexts of their cases (i.e., civil war-torn DRC vs. post-apartheid South Africa). Thus, their study highlights the

²⁷ To my knowledge, this is the only study to systematically evaluate the efficacy of mining companies' security governing activities. While Rosenau et al. (2009) examine the security governing activities of Placer Dome in Papua New Guinea and Royal Dutch Shell in the Niger Delta, their findings are largely anecdotal, as they are not guided *ex ante* by theoretical expectations, nor do they control for confounding effects.

importance of pairing like-cases and theorizing *a priori* baseline effects before analyzing the marginal effects of MNCs' governing activities.

Secondly, when applied to the analysis of localized social conflicts, wherein community engagement is highly institutionalized²⁸, this model fails to adequately account for the dynamic nature of legitimacy. While global governance scholars correctly identify legitimacy as a necessary condition of effective non-state service provision (Krasner & Risse, 2014; Avant et al., 2010), this variable is neither static, nor exogenously given. Rather, it is endogenous to the relationship between the non-state service provider and target population and is in a state of constant flux; it can be constructed or deconstructed based on the iterative interactions between the two over time. Accordingly, the efficacy with which mining companies peacefully govern specific episodes of social conflict will hinge upon the history of community-firm relations that preceded conflict outbreaks. In this regard, firms may exercise considerable agency, as their behavior vis-à-vis civil society structures the perceptions affected communities have of mining companies as security governing agents, and hence the efficacy of their social conflict management activities.

2.3.3 Hypotheses:

The efficacy with which mining companies can use community engagement to peacefully manage social conflict is best understood by analyzing the generic security risks of host regions alongside the security outputs of the corporation as a security governing

²⁸ As outlined in Chapter 1, since the early 2000s community engagement as a security governance strategy has become institutionalized best practice within mining companies, as evidenced by the proliferation of professionally staffed community relations/CSR departments that maintain annual operating budgets and have formal procedures for engaging in stakeholder dialogue and development. While security provision is by its very nature a complex task, it can be overcome when governance activities are highly institutionalized (Krasner & Risse, 2014: 560).

agent. To understand generic security risks I situate the firm within society analyzing how the external political economy of contention shapes baseline levels of social conflict and the patterns of escalation that are likely to emerge in response to industrial mining activities. To understand the security outputs of mining companies, I open up the black box of the firm analyzing its intra-organizational politics to explain its aggregate behavior vis-à-vis society. Together, these two institutional domains can account for the salient factors in the efficacy with which MNCs peacefully manage social conflict related to industrial mining.

2.3.4 Propensity and patterns of social conflict under normal conditions

If companies operate in regions characterized by high levels of poverty, ineffective local governments, and fragmented and fractionalized electoral politics, then they will be forced to contend with a more insecure baseline environment (i.e., high security risks). All other things being equal, these exogenous socio-economic and politico-institutional conditions foster a local political economy of contention wherein social conflict and violent protest in response to specific mining activities are higher probability outcomes.

Social conflict risks increase in regions affected by high levels of poverty. At the individual level, poverty can lower the opportunity-costs associated with participating in risky methods of interest expression, such as protests and riots. By reducing the value of the forgone alternative, individuals can rationally deduce that protest activities, while they may risk arrest, injury, or death, may nevertheless yield a higher payoff than non-participation. Collectively, impoverished groups may also be easier for political elites to manipulate when seeking to foment social conflict for parochial ends. While impoverished populations confront problems of collective action, their general dissatisfaction with the

status quo is a potentially potent mobilizing frame to be exploited by political entrepreneurs. Finally, when industrial mining operations proceed in proximity to impoverished populations confronting livelihood stress,²⁹ they run a heightened risk of contributing to grievances rooted in concerns over relative deprivation. As a highly profitable economic activity, industrial mining can easily exacerbate the real or perceived gap between corporate have's and local have not's, and as several scholars have discovered, asymmetries in the distribution of benefits commonly predispose industrial mining activities to situations of social conflict (Haslam & Tanimoune, 2016; Franks et al., 2014; Arellano-Yanguas, 2012/2011).

Second, the performance capacity of subnational governments is a determinant of socio-economic well-being and satisfaction with local politics, and thereby an indicator of general social conflict risk. In areas of limited statehood local governments may lack experienced personnel and administrative systems to perform in an efficient and effective manner. Moreover, weak institutional structures and oversight mechanisms may make them prone to wastefulness and corruption in the appropriation and usage of revenues. Subnational governments that are unable to perform rudimentary functions, such as the development of basic infrastructure (e.g., potable water, sanitation), and provision of crucial social services (e.g., health care, education), contribute to the poverty trap. What's more, low performance output can also be indicative of high levels of corruption within

²⁹ Haslam & Tanimoune (2016) have found project altitude to be a robust predictor of social conflict. Open pit mining operations located between 2000 and 5000 meters above sea level are more prone to conflict as they generate large environmental impacts on poor populations who must already contend with restricted livelihood portfolios.

the structures of local government, which can reduce civil society's trust in elected authorities and civil servants. The social conflict risks generated by ineffective local governments will be particularly acute within the context of revenue-flush mining regions, wherein subnational governments have increased their share of resource rents, yet remained unable to transform the fiscal bonanza into life and livelihood improvements for their constituents (Ponce & McClintock, 2014; Bland & Chirinos, 2014).

Finally, social conflict risks increase in regions with highly fractionalized and fragmented electoral politics. Fractionalization refers to low levels of intra-party control/discipline, while fragmentation refers to the number of viable candidates competing for office. As Arce (2014: 54) notes, these factors increase social conflict risks by “[impairing] the mechanisms of accountability and responsiveness that are typically associated with electoral competition...and [by encouraging] the use of confrontational and disruptive strategies to achieve political goals or express policy demands.” Unrestrained/undisciplined candidates are more likely to utilize protest activities as campaign strategies designed to distinguish themselves from their competitors. Furthermore, as electoral politics become increasingly fragmented, candidates are more likely to win office with a smaller popular vote share, and thereby target public investments to select constituents (i.e., transform public goods into club goods) or to use office for political patronage (Arce, 2014: 54). Like ineffective local governments, this can perpetuate poverty and inequality, and thereby contribute to generally higher levels of societal discontent. Lastly, fragmentation is an acute risk in mineral-rich regions, as the potential rents generated by a future mining investment can increase the “value” of elected

office, thereby creating incentives for more candidates to enter the electoral fray in attempt to capture the monetary spoils of incumbency.

Ultimately, regions with these exogenous socio-economic and politico-institutional characteristics are more likely to have a political economy of contention wherein social conflict is a higher risk outcome. Open protest and violence are more likely across all social conflict types identified by the Ombudsman (see Chapter 1, footnote #11), especially in response to destructive/disruptive industrial activities such as open-pit mining. As Bland & Chirinos (2014: 79, my emphasis) observe in the case of Peru, “regions with high levels of conflict...tend to have common features. Many communities are in the Andean sierra, are rural, have high rates of poverty, are socially and economically underdeveloped, and often exhibit high rates of *general unrest*.” Consequently, when industrial mining operations take place in such contexts, MNCs will be forced to contend with a more challenging baseline security situation; one that predisposes higher frequency and intensity conflicts. While their security governing efficacy will be circumscribed by several exogenous factors beyond their direct control, mining companies can nevertheless mitigate conflict likelihoods by taking actions to alter the distribution of risks and benefits impoverished populations confront as a result of extraction-led development.

The environmental risks and impacts generated by industrial mining activities commonly trigger escalations of social conflict; however, the manner in which material benefits, such as jobs, social investment projects, rents, etc., are dispersed predisposes operations to situations of conflict (Franks et al., 2014). Taken together, these factors can be understood in terms of the distribution of risks and benefits, which are differentially apportioned among stakeholder communities in mining-affected regions. Asymmetries in

this distribution arise from: (a) the *areas of influence* around which community-firm relations are organized, and (b) the institutional capacity of subnational governments. Combined, they are responsible for why some groups confront heightened environmental threats and receive minimal material gains, while others do not.

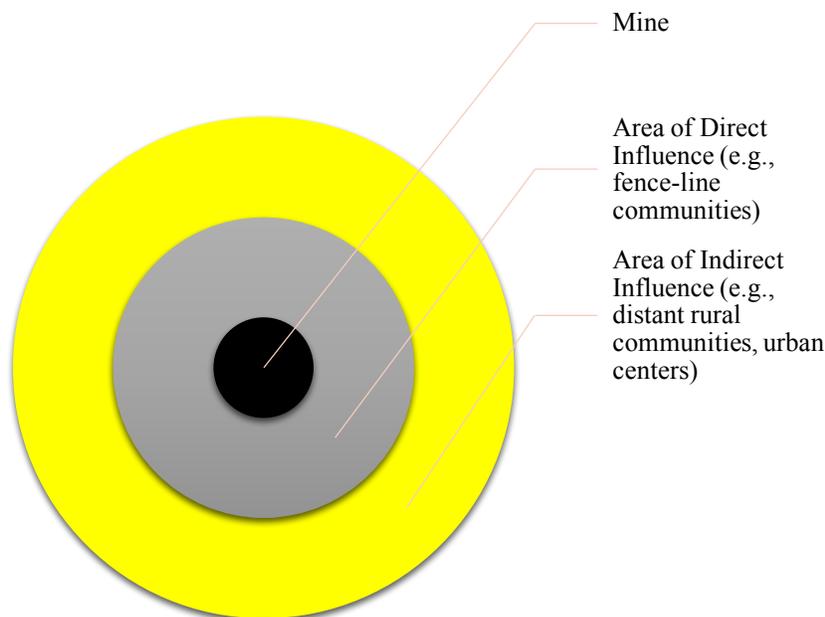
In the global mining industry, community-firm relations are organized according to *areas of direct and indirect influence*³⁰, conceptualized as a series of concentric circles emanating outwards from mining operations. MNCs view their authority and obligation as strongest within the ring immediately bordering the mine, and decreasing concomitantly as one travels away.³¹ The so-called “fence-line” communities encircling operations who are affected by day-to-day activities (e.g., traffic, dust, noise pollution, etc.) and are highly vulnerable to socio-environmental impacts (e.g., pollution, displacement, etc.) comprise the foci of companies’ social investments, infrastructure projects, direct employment, and grievance management activities. Communities located farther away, which are shielded from day-to-day activities and are considered by companies to be less affected by the socio-environmental impacts, fall beyond the purview of MNC engagement (see Figure 2.1). For

³⁰ Areas of influence are a product of environmental impact assessments (EIAs). EIAs allow companies to obtain a legal license to operate by outlining projects’ expected risks and benefits. Companies also use them to report on the mitigation, adaptation, and compensation measures they will implement in response. Accordingly, the area of direct influence is the geographic space wherein the company believes the socio-environmental risks to be highest, and will thereby concentrate its community engagement activities. By contrast, the area indirect influence is the geographic space in which the company considers risks to be minimal, and thereby defers to subnational governments to engage with those populations. As I outline in Chapter 3, the rules and regulations guiding the EIA approval process in Peru have greatly empowered MNCs, affording them considerable leeway in defining the borders of these categories.

³¹ As Newell (2005) argues, socially responsible MNCs often prefer to work only with a limited number of stakeholder communities whom they have identified as legitimate parties.

these communities, the appropriate subnational jurisdiction is expected to realize material benefits (i.e., poverty reduction, basic needs, development, etc.) and resolve indirect stakeholder concerns.

Figure 2.1: Areas of influence



However, as noted above, subnational governments in areas of limited statehood may be ill-equipped to provide constituents with basic needs (i.e., fulfill poverty reduction and development mandates), and otherwise resolve societal grievances through formal institutional channels. As a result, this two-tier system of community engagement can aggravate political economies of contention by heightening asymmetries in the distribution of risks and benefits. While less affected by the daily operational activities of the mine, communities within the area of indirect influence may nevertheless remain vulnerable the geographically diffuse and long-term socio-environmental impacts of industrial mining,

such as water consumption and pollution.³² To compound matters, these communities may also receive minimal material benefits from ineffective local bureaucracies and unresponsive elected officials who deny them access to the resource rents generated by the operation.

For companies to reduce the likelihood that their activities will have interaction effects with a political economy of contention, they must act to reduce asymmetries in the distribution of risks and benefits. This can be accomplished by utilizing their organizational resources and expertise to assist with institutional capacity building efforts. For instance, multinational mining companies have accumulated substantial proficiency in activities such as stakeholder mapping, social and economic baseline assessments, infrastructure projects, and other forms of long-term social planning. Therefore, they could participate in knowledge transfer initiatives designed to enhance the administrative systems of local governments, as local authorities and administrators must conduct similar needs-based assessments and planning exercises to effectively reduce poverty and promote sustainable development in their jurisdictions. Such activities would address elements of regions' political economies of contention. By tackling the permissive conditions/predisposing factors of social conflict, moreover, they amount to what Doyle & Sambanis (2006) call "peacebuilding", which consists institution-building initiatives intended to address conflicts' structural roots. As Honke (2014: 177), argues, the extent to

³² While mining companies tend to downplay the temporal and spatial dimensions of their environmental impacts during the EIA approval process in order to gain obtain a legal license, industrial mining activities invariably have geographically diffuse and long-term impacts on natural resources that extend beyond the area of direct influence (Gamun & Dauvergne, 2016).

which MNCs partake in institution-building efforts is “crucial for...evaluating the business for peace agenda in relation to extractive industries.”

2.3.5 Organizational culture and effective conflict management

If traditional attitudes predominate in organizational culture, then mining companies will be less effective security governors. Traditional organizations are less likely to heed the advice of community relations and CSR staff during periods of social turmoil, and more likely to utilize coercion and cooptation to prevent and manage conflicts. While companies have increasingly utilized community engagement to prevent and peacefully manage the socially-destabilizing effects of their operations, they nevertheless have an array of security strategies available to them. However, heterogeneity in the security governing outputs can undermine the legitimacy of dialogue and development as socially responsible mechanisms of security governance.

Organizational culture is a salient factor when analyzing the marginal effect of mining companies on security governance as it represents the underlying intra-firm factor responsible for MNCs’ *output legitimacy*. Krasner & Risse (2014: 547) define output legitimacy as the “extent to which...capacity-building or service-provision efforts are seen as being normatively appropriate by the target populations.” The predominant beliefs and values within organizations affect the allocation of resources to “non-essential” business activities; influence the processes and time required to facilitate alignment across competing sub-units; the speed or inertia of organizational learning; and crucially, enhance or diminish the influence of community relations and CSR staff over corporate policy (Rees, 2009; Rees et al., 2012). The internal status of the community relations/CSR sub-unit is a crucial indication of the congruence between socially responsible rhetoric and

practice (Jones et al. 2007). Furthermore, “[i]f Community Relations does not have the authority and autonomy to negotiate in the name of the company, or if its promises are later denied by the higher management, the external legitimacy of the community relations team will be jeopardized” (Perla 2011: 61). Thus, the prevailing corporate culture affects an array of internal processes that structure its aggregate behaviour vis-à-vis civil society, which in turn, affects the prevailing impressions stakeholder communities have of the corporation as a governing actor, particularly, the trust they exhibit towards MNCs during periods of social turmoil.

For the purposes of analysis, I disaggregate the local level arm of companies into two constituent parts, each with its respective sub-culture, material resources, core interests, and position within the corporate hierarchy: operations and community relations/CSR. The operations sub-unit is responsible for technical processes pertaining to mineral extraction, processing, and daily operational activities. Generally speaking, it consists of individuals trained in scientific and/or technical fields, such as engineering, geology, and metallurgy. Moreover, this sub-unit is closely aligned with senior management and economists who seek to ensure daily activities keep pace with changing market conditions. Its organizational sub-culture revolves around scientific rationality, shareholder maximization, and “market time.” One prominent anthropological account of a mining company has even suggested that operations sub-units may harbour subtle (neo)colonial, paternalistic (and sometimes racist) attitudes towards local populations, and value quick, technical fixes to what are viewed as social “problems” (Coumans, 2011). Rather than treating local stakeholders as strategic partners in development, they may be inclined to view them as naïvely threatening development/progress, and unappreciative of

corporate benevolence. This sub-unit may also view the stakeholder information collected by the community engagement sub-unit as a form of strategic intelligence to be employed instrumentally to enhance social control (Coumans, 2011).

The community relations/CSR sub-unit is a relatively recent organizational construct, which emerged in the post-CSR era. It is the principal communication conduit between companies and local stakeholders, and is responsible for implementing daily dialogue and development activities. Generally speaking, it consists of individuals trained in the social sciences and humanities, such as anthropology, sociology, political science, and law. Its organizational sub-culture revolves around stakeholder maximization, shared value, social responsibility and sustainable development, and is attuned to the slower “social time” required to construct and maintain companies’ social licenses.

Accordingly, MNCs’ security behaviour vis-à-vis stakeholders can be understood as a function of the interactions between these sub-units given the predominant organizational culture. The international relations literature on “bureaucratic politics” is instructive here; it suggests the governing outputs are not necessarily rational or normative responses to firms’ external environment, but rather the aggregation of politicized interactions between competing sub-units (Bendor & Hammond, 1992; Allison, 1971). While the relative importance of the community relations/CSR sub-unit has increased with the global proliferation of CSR norms, it may nevertheless be relegated to the lower rungs of the organizational hierarchy. Firms’ operational arms may continue to exercise considerable leverage over strategic daily decisions and during crisis periods. Within the context of global boom periods, their influence may be further heightened, as it becomes imperative for companies to rapidly respond to market demands and opportunities. The

relative power the operations sub-unit exercises over community relations/CSR may account for why some companies, despite having institutionalized community engagement, nevertheless continue to implement contradictory security practices that undermine the governing legitimacy of the corporate entity, and by extension the efficacy of dialogue and development activities.

While MNCs increasingly rely upon community engagement to govern security (Avant & Haufler, 2012), they may also draw upon a repertoire of tactics to stabilize relationships with host societies and protect assets. The corporate security repertoire consists of 4 strategies in addition to community engagement: *avoidance*, *fortress*, *alliance*, and *cooptation*. *Avoidance* refers to exit/divestment from societies affected by violent conflict in order to circumvent harm. As noted in Chapter 1, MNCs in the global extractive industries seldom exercise the exit option due to location specific nature of reserves and the sunk costs of developing operations.

Fortress involves the physical securing of assets, people, and mission through efforts to coercively thwart or debilitate hostile elements within host societies. It typically involves hiring private security contractors to protect perimeters, and tacit or formal *alliances* with the state security apparatus. *Fortress* and *alliance* strategies treat host societies as a source of potential threats, rather than a strategic partner with mutual interests in social stability.

Finally, *cooptation* involves the targeted transfer of goods and services in exchange for quiescence or active political support. Its objective is to maintain social control and operational stability by precluding a critical mass of actors from within host societies from resisting MNC activities (i.e., divide and rule). It is important to note that poverty reduction

and sustainable development initiatives that fall under the CSR rubric have sometimes been accused of reproducing clientelistic relationships, particularly when implemented bilaterally with stakeholder communities.

Unlike community engagement, the aforementioned strategies are rooted in self-regarding and/or exclusionary logics of security provision, and rely, moreover, upon activities that contradict the principles of socially responsible conduct (e.g., physical intimidation, social division, political manipulation, etc.). Their *raison d'être* is to protect assets, maximize profits, and generate a minimum level of stability required to facilitate production; whereas security provision through dialogue and development treat stakeholders as strategic partners, and aim to stabilize community-firm relations through activities that generate shared value, and resolve conflict while upholding the tenets of procedural fairness. If alternative security strategies are implemented alongside community engagement, stakeholders will remain skeptical of companies' commitments to govern security through dialogue and development. Alluding to the legitimacy crises that can arise as a result of companies' implementation of heterogeneous security policies, one experienced community relations officer for a major North American company commented:

Daily meetings at the community relations office, monthly assemblies, these types of mechanisms...have been able to help a lot in terms of letting them [communities] identify you, know that you're there, that you're the person to talk to, and that minimizes the violence that can occur in social conflict. But, if you show up with the police you're committing a huge error.³³

MNCs can mitigate the internal political divisions responsible for the implementation of heterogeneous security strategies by taking actions to facilitate

³³ Interview 28/04/2014, translated from Spanish.

consensus among organizational sub-units – what is known within the mining industry as “internal alignment.” As one representative from a prominent consulting agency that advises mining companies on social conflict prevention and management stressed, “effective conflict management starts in house”.³⁴ Management scholars echo this, suggesting that effective conflict management is “as much inward-facing as outward-facing” (Rees et al., 2012: 2). This, however, is more likely to occur when senior management and technical staff exhibit an inclination towards socially responsible conduct in general, and are thereby willing to act on the advice of community relations/CSR staff to ensure dialogue and development are the predominant security governance strategies.

2.4.1 Conclusion

In this chapter I have advanced three arguments. First, the environmental scarcity and resource curse literatures have yet to offer sufficiently nuanced conceptualizations to analyze local level social conflict involving large-scale industrial mining operations. These literatures typically conceptualize resource conflicts as large-scale violent phenomena that operate at the level of the state, while dichotomizing conflict as driven by scarcity or abundance. While instructive, their broad stroke characterizations offer limited insight into the more common forms of small-scale violence involving industrial mining operations.

Second, despite recognizing that MNCs are crucial agents in security governance in areas of limited statehood, global governance scholars have yet to systematically analyze the marginal effect of their conflict prevention and management efforts. To date, the main dependent variable of interest within this literature has been the corporate adoption of conflict-sensitive business norms rather than their empirical consequences. In order to

³⁴ Interview 11/07/2014.

assess the impact of corporate activities on the transformation of social conflict, I operationalize effective CSG as that which leads to a reduction in the frequency and/or intensity of violent escalations of social conflict over the lifespan of a firm's operation.

Finally, I argue that two factors determine the efficacy of MNCs' of community engagement activities for peacefully managing social conflict around their operations. First, the efficacy of companies CSG activities will, in part, be a function of the political economy of contention within which they are embedded. However, companies can use community engagement to reduce the likelihood of social conflict escalation through actions to remedy the asymmetrical distribution of risks and benefits stakeholder groups confront as a result of extraction-led development in areas of limited statehood. Second, MNCs' marginal effect on security will be influenced by the intra-firm politics that determine their behaviour vis-à-vis society. Firms that empower their community relations/CSR subunits will be less likely to implement heterogeneous security policies, and thereby more likely to be viewed by external actors as legitimate and socially responsible security governing agents.

As I demonstrate in the empirical chapters that follow, the companies examined in this dissertation have been embedded within challenging political economies of contention, yet still exhibit variation in their ability to peacefully manage social conflict episodes involving their operations. Chapter 4 examines social conflict at Minera Yanacocha's Conga and Yanacocha gold mines in the region of Cajamarca. Despite the company's challenging external milieu, Minera Yanacocha has been highly ineffective as a security governor due to a crisis of governing legitimacy the company has forged. Chapter 5 examines social conflict at Minera Barrick Misquichilca's Pierina gold mine in the region

of Ancash. While the region exhibits similar features to Cajamarca's political economy of contention, social conflict involving Pierina has been less frequent and intense than the previous case due to Barrick's relative openness to dialogue and development. Finally, Chapter 6 examines social conflict at the Tintaya copper mine in the Espinar province of Cusco region. While this case involves conflict at a single operation, Tintaya has been owned by two foreign multinational mining conglomerates over its 30-year lifespan, BHP-Billiton and GlencoreXstrata. Again, this chapter demonstrates variation in the efficacy of with which Tintaya's owners have peacefully managed social conflict, enabling me to infer that firm-level factors are responsible for the differences in security outcomes.

However, before I delve into the case studies, Chapter 3 presents an overview of Peru's mining industry regulatory framework. As I argue, the contemporary rules governing industry activities are rooted in neoliberal economic doctrine, which have served the interests of foreign capital by greatly reducing the role of the central state as a neutral arbiter between companies and affected communities, while providing a greater role for weak and ineffective subnational governments to manage the fiscal bonanza of the recent global mineral commodities boom.

Chapter 3: Selective Absence, Decentralization, and Peru's Neoliberal Extractive Economy

“Peru has substantially modified most of its mining legislation, which has created a legal framework to encourage domestic and foreign investment...[T]he current mining investment system in Peru is one of the most competitive and attractive in Latin America.”
-MINEM, 2013

“The effects of Peru's new neoliberal mineral-based economy are just beginning to be understood by scholars and policy-makers.”
-Bury, 2002

“One of the consequences of liberalisation of the...mining sector has been the way in which past public functions of the state have increasingly been delegated to private operators. These include service delivery and also rule setting and implementation.”
-Campbell, 2008.

Peru has steadily become one of the world's premier destinations for mining sector investment. Today, this middle income developing country is the world's third largest producer of zinc and copper; the fourth largest producer of tin, lead, and molybdenum; and the sixth largest producer of gold. Moreover, within the region of Latin America it ranks first in gold, tin, lead and zinc production (MINEM, 2015). While Peru has long been considered a “mining country” (Li, 2015) – its history of mineral extraction dates back to the brutal colonization of the Americas – its rapid ascension within the contemporary global mining economy can be attributed to the macroeconomic and mining sector reforms implemented throughout the 1990s under the competitive-authoritarian regime of former President Alberto Fujimori. In this chapter I examine some of the regulatory features of Peru's neoliberal mineral-based economy in order to provide national institutional context for the ensuing subnational case studies.

While macroeconomic and mining sector reforms have been instrumental in attracting much needed foreign direct investment (FDI) and accelerating the growth of this

strategically important sector, they also undergird the contentious terrain of the country's contemporary extraction-led development paradigm. I argue that the current regulatory framework governing industrial mining activities in Peru is a quintessential embodiment of neoliberal economic development doctrine, and as such, has privileged the power of private capital over civil society. Structural reformation of the country's economy has led to a considerable retraction of central government functions to the point that it has effectively abdicated its role as a neutral mediator between the interests of foreign capital and citizens. As part of a strategic compromise designed to maintain a favourable relationship with mining companies, the Peruvian state (like many developing country governments dependent on mining FDI) has in practice acquiesced to CSR as the preferred regulatory mechanism for the industry. This has not only enabled MNCs to increasingly assume de facto governing and service provision roles at the local level, but also enabled them to exercise considerable discretion over the nature and scope of their community engagement activities due to the central government's weak enforcement capacity.

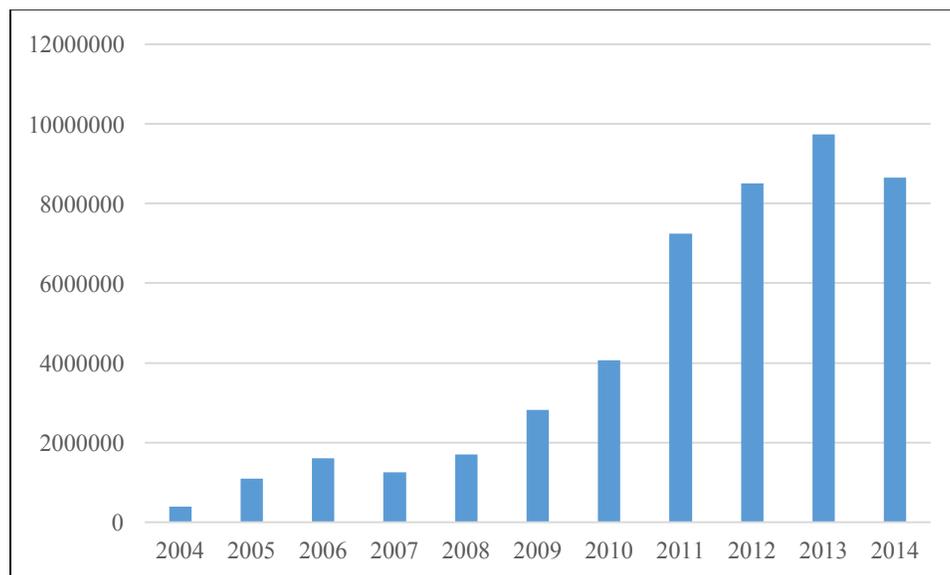
Furthermore, the country has recently pursued a process of fiscal and democratic decentralization, further circumscribing the central government's role at the local level in peripheral mining regions (i.e., remote highland communities of the Andes). In theory the decentralization of formal institutions can counterbalance central state weakness by empowering affected communities in the governance of extraction-led development, yet in practice it has been plagued by problems of implementation due to the weak capacity of many of the country's nascent subnational governments and bureaucracies. The neoliberal regulatory framework governing Peru's mining industry, however, is by no means unique to this Andean country. International financial institutions (IFIs), with the support of

industry, have advocated similar regulatory regimes throughout Africa, Latin America, and South East Asia. Thus, Peru can be viewed as a paradigmatic for analyzing the effects and implications of multinational mining companies' governing roles in other resource-rich developing countries with similar regulatory and institutional features.

3.1.1 Structural adjustment, mining sector reforms, and industry growth

Between 1990 and 2000 the Peruvian economy transformed into one of the most liberalized economies in Latin America and the world (Bury, 2002). Structural reformation of the country's economy, along with the creation of a regulatory framework highly amenable to the interests of mining FDI have driven the remarkable performance of the country's mining sector. Today, mining is the growth engine of the country's economy, accounting for approximately 58% of Peru's total exports and 12% of its GDP (Helwedge, 2015: 75). While the country experienced almost no growth in mining FDI between the mid-1970s and the early 1990s, it has since witnessed a dramatic influx. In 1993 total mining investments were valued at approximately \$200 million US (Ponce & McClintock, 2014: 121), and since the early 2000s have skyrocketed from approximately \$396 million US in 2004, to a peak of just under \$10 billion in 2013 (see Figure 3.1). This increase is due in large part to a series of policy changes designed to create conditions for multinational mining companies to profitably operate within the country. Prior to 1990 industrial mining was concentrated around only a handful of state-owned enterprises, today the country boasts one of the highest concentrations of large-tier companies in all of Latin America (Arce, 2014: 47). Finally, the extensity of mining investment (i.e., geographic scope) has also increased as evidenced by the dramatic expansion of Peruvian territory covered by mining concessions. Concessions are granted by Peru's Metallurgical

Figure 3.1: Total mining investments in Peru 2004-2014 (thousands of USD)

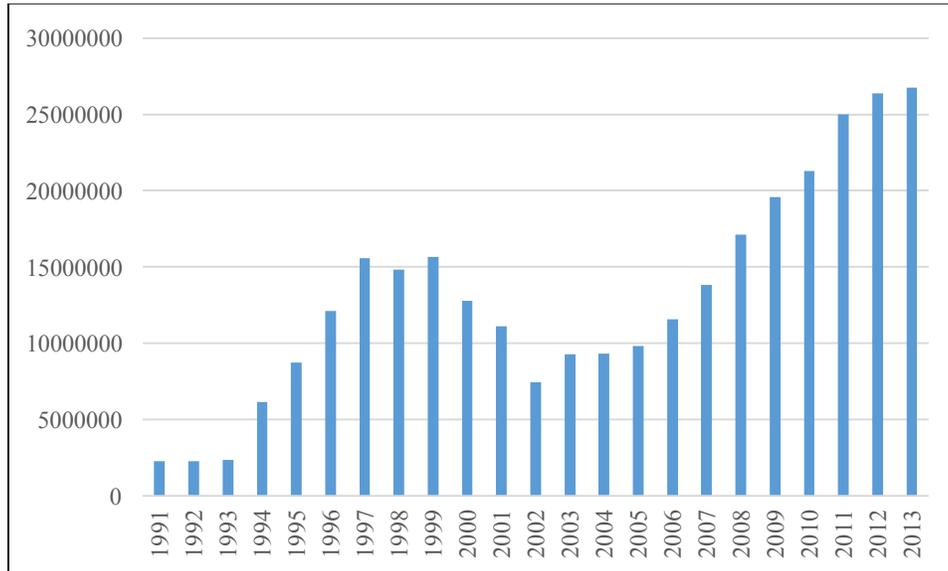


Source: INEI, n.d.

and Geological Institute and give title holders the right to explore and exploit minerals within an indefinite depth. Between 1991 and 2013 the amount of Peruvian territory under concession increased from approximately 2.3 to 26 million ha, an expanse equivalent to approximately 21% of the country's total surface area (see Figure 3.2). By 2013, there were a total of 47 147 concessions, the majority of which have been concentrated in the mineral rich Andes region (MINEM, 2013: 15). While technological advancements in exploration and exploitation that grant companies easier access to previously hard to reach or low grade deposits, combined with a period of sustained high mineral commodity prices, have made it generally more profitable to operate in the developing world since 2000, the regulatory environment governing the industry in Peru has made this country a particularly lucrative host for foreign firms.

The country's mining sector reform occurred within the context of the wave of

Figure 3.2: Total territory under concession 1991-2013 (hectares)



Source: CooperAcción, 2013

neoliberal economic development policies that gained prominence from the late 1970s into the early 1990s. During this period IFIs, such as the World Bank and International Monetary Fund (IMF), proposed developing countries reduce severe indebtedness through a series of sweeping, yet standard macroeconomic reforms designed to promote growth and full integration into the global economy. Attached as conditions to loan packages, structural adjustment programs consisted of measures such as: the deregulation of markets; privatization of state-owned enterprises; liberalization of trade and investment policies; creation of competitive exchange rates; tax reform; removal of state subsidies; and most notably/controversially, fiscal austerity measures designed to rapidly reduce budget deficits, often times resulting in cutbacks to the state's social welfare infrastructure.³⁵

³⁵ These standard macroeconomic reforms were rooted in a policy paradigm known as the *Washington Consensus*, owing to the fact that the major financial institutions located in Washington D.C. (e.g., World Bank, IMF, and the U.S. Treasury) advocated a shared set of policy prescriptions for development.

For resource-rich developing countries, structural adjustment also required host governments capitalize on the comparative advantages offered by their subsoil endowments. Prevailing wisdom suggested these governments ought to adopt a pro-mining position; if growth had developmental and pro-poor effects, and industrial mining could act as a catalyst for growth, then these countries should implement mining-friendly policies. This rationale was echoed in a widely circulated report prepared for the World Bank, in which Weber-Fahr (2002: 13) argued:

Overall, economic growth per se is a well-documented prerequisite to sustainable development and poverty reduction. Growth in national income has been shown to benefit all groups, including the poorest, and is strongly associated with other measures of well-being such as health, nutrition, and education. Thus, growth in GDP/capita, whether based on the creation of mineral wealth or on other assets, can also be expected to reduce poverty profiles overall.

While debate remains over the precise developmental and poverty reduction effects of liberalized mining economies (for example see, Gamu et al., 2015; Ross, 2001), structural adjustment had immense implications for the governance of industrial mining activities in the global South. At the time, many mineral-rich developing countries did not possess the investment capital or technologies required to fully and competitively exploit their resource endowments, much less the incentive structures required to attract the foreign investors that could. For instance, in 1992, the World Bank set out its “Strategy for African Mining” (a policy document which has served as the basis for mining sector reform throughout the global South), which argued the industry’s underperformance on the continent was due to inefficient state owned enterprises, the prominence of small-scale and informal exploitation activities, and under-resourced mining sector support institutions. Thus, IFIs argued mineral-rich developing countries should implement sector-specific reforms that focused on attracting FDI by creating more appealing fiscal terms and operating conditions

for companies. As Szablowski (2007: 34) observes:

the [World Bank's] new agenda advocated comprehensive privatisation of state companies, an end to restrictions on foreign ownership and the repatriation of profits, lowering rates of taxation and royalties, restructuring labour laws to permit greater flexibility, and the termination of performance requirements such as those mandating local sourcing or local hiring. In addition, mining legislation had to be rationalised, administrative processes simplified, technical services to the industry (such as modernisation of the mining cadastre) improved and 'subjective' elements of bureaucratic discretion removed from the permitting and approvals processes.

As evidence suggests, the combination of structural adjustment and sector-specific reforms significantly altered the risk/reward ratios for foreign companies, thereby resulting in the largest ever transition in mining FDI from the developed to the developing world (Bridge, 2004). Within this broader global-historical context former Peruvian President Alberto Fujimori dramatically liberalized the country's mining sector, creating conditions for multinational mining firms to exert structural power over the state.

Having campaigned as a political outsider on a platform to end the country's violent rural insurgency and reduce its crippling hyperinflation through gradual means, Alberto Fujimori was elected President of the Republic of Peru on June 10, 1990 after beating the conservative candidate Mario Vargas Llosa in a run-off vote. As an unknown figure in national politics whose victory reflected not a popular mandate *per se*, but rather a repudiation of the country's established parties, Fujimori lacked the allies in congress required to implement his legislative agenda. With only 14 of 60 seats and 49 of 180 seats in the upper and lower houses respectively, he forged tenuous alliances with centrist parties (Cameron, 1998b: 223). Two years into the presidency, however, Fujimori confronted declining popularity, shifting alliances in congress, and frequently found himself at loggerheads with opposition parties over the state's counterinsurgency campaign. Having been made aware of a coup plot by an ambitious intelligence officer (Cameron, 2006), on

the evening of April 5 1992 Fujimori staged an *autogolpe*³⁶ with the backing of the military and intelligence services (who supported him until a corruption scandal triggered the fall of his regime in 2000). Fujimori dissolved congress, later transforming it into a “rubber stamping” body, suspended and rewrote the 1979 Constitution, and stacked the judiciary with supportive judges. The concentration of power within the hands of the executive branch enabled the President to effectively rule by decree. As a result, it was possible to implement sweeping economic reforms despite the fact that they remained highly controversial.³⁷

In a process that became widely known as “Fujishock”, Fujimori reneged on his campaign promise to deliver a gradual and mediated solution to hyperinflation, dramatically liberalizing the country’s economy and implementing a series of mining sector policies aimed at creating favourable investment conditions for companies in order to attract FDI. As Bury (2002: 5) details,

[i]n the mining sector, the Fujimori administration adopted a wide-ranging privatization program that offered international investors attractive mining opportunities and eliminated competition from national firms that controlled significant access to mineral deposits. In addition, the Fujimori administration implemented a floating exchange rate, eliminated price controls, direct subsidies and restrictions on foreign investment and lifted exchange controls and restrictions on remittances of profits, dividends and royalties...Furthermore, a radical reformation

³⁶ As Cameron (1998a: 125-26) describes, an “*autogolpe*” (“self-coup”) occurs when a president closes the courts and the legislature, suspends the constitution, and rules by decree until a referendum and new legislative elections are held to approve broader executive powers...Presidents implement *autogolpes* in order to pursue policies that would be impeded by a vigorous legislature, independent courts, and watchful citizens. *Autogolpes* dangerously weaken mechanisms of horizontal accountability.”

³⁷ It is important to note that while Fujimori’s fiscal austerity measures were contested, alone they do not provide a sufficient explanation for the 1992 *autogolpe*. As Cameron (1998b) argues, the high perception of threat generated by the Maoist insurgent group, Sendero Luminoso, which began an urban terrorism campaign in the 1990s enabled Fujimori to consolidate the support of the armed forces and gain the approval of the general public for efficacious measures to combat terrorism.

of land tenure rights under the National Mining Cadastre Law guaranteed mining firms control of the necessary land resources to implement their operations.

Fujishock had the invariable effect of privileging of the interests of foreign capital over civil society, while solidifying its structural power over the state. These outcomes are most evident when one examines the tax, environmental, and consultation regimes governing industrial mining.

Negotiations between states and mining companies over tax rates have been described as an “obsolescing bargain”. According to this model, interactions initially favour the interests of mining companies, as they possess the capital and technologies required to exploit deposits that the state does not. However, over time negotiating power shifts in favour of the state, which is able to renegotiate tax contracts as costs become sunk and companies have limited capacity to exercise the exit option (Vernon, 1971). However, Fujimori’s tax policies demonstrate a consistent privileging of the interests of foreign capital throughout the lifespan of their investments. For example, companies were exempted from paying a standard 30% tax until they had recovered their initial investments. For an industry characterized by commodity price volatility, this provided few *ex ante* assurances that the state and civil society would reap the fiscal rewards. Additionally, the Fujimori administration mandated the signing of tax stability contracts that could not be changed without the consent of companies. Fujimori effectively institutionalized the veto power of mining FDI over the renegotiation of tax rates, a move that clearly contradicts the theoretical expectations of the “obsolescing bargain” model, highlighting the powerful position of foreign capital over the state in this sector.

These flat-rate tax contracts have been highly controversial, particularly within the context of the global mineral commodity boom that began in 2000. The dramatic rise in

global mineral prices has generated widespread demands from within civil society that the government (and by extension, Peruvian citizens) receive an adequate share of the unprecedented profits. While Fujimori's tax policies have been the subject of major debate following his removal from power in 2000 (many calling into question their very legitimacy due to the authoritarian nature in which they were implemented), subsequent attempts to repeal tax legislation by democratically elected governments have also failed. The former president Alan Garcia (2006-2011) campaigned on a promise to renegotiate these tax policies, however, balked once elected into office, further demonstrating according to Arellano-Yanguas (2011: 621), "the subordination of the government to mining interests".

Second, the principal environmental governance mechanism of Peru's mining sector suffers from inadequately defined checks and balances, along with institutionalized power asymmetries that have prevented affected communities from adequately exercising voice. Since 1993, companies have been required by the "Regulation Governing Environmental Protection for Mining Activities" (Law No. 016-93-EM) to submit environmental impact assessments (EIAs) for all projects and phases of the mine lifecycle.³⁸ In 1996, newly implemented legislation (Law No. 335-96-EM/SG) further required EIAs to be conducted in a manner that facilitated civil society's participation in the approval process, with companies having to submit their EIAs to "public audiences". However, at this time only local stakeholders who formerly registered with the Ministry of Energy and Mines (MINEM) were eligible to attend public hearings. In 2002, Law No.

³⁸ EIAs are required for: exploitation; mineral treatment; processing, refining and smelting; ore deposits in port facilities; general works; transport of chemical materials and waste products; and mine closure.

596-2002-EM greater enshrined citizen participation in the EIA approval process by removing the previous MINEM registry requirement.

Today, EIAs are the only formal mechanism through which affected populations can participate in the environmental governance of industrial mining in Peru. Their purpose is to facilitate an interdisciplinary and multi-stakeholder analysis of the projected impacts on affected communities/regions. However, despite the incremental improvements to laws governing the process, Jaskoski (2014: 875) argues,

the EIA in Peru's mining sector is [still] not structured to protect or listen to local communities: companies and the state need not heed community concerns during participatory forums, and the EIA review process lacks an independent rigorous examination of the various dimensions of the EIA, including potential adverse effects of extraction on communities.

As a corporate-driven exercise, MNCs exert considerable influence over who can attend EIA public hearings and what issues are on the agenda for debate. While in theory all those who may be impacted are eligible to attend, in practice vulnerable groups (i.e., women and indigenous communities) are often unable to do so given the costs associated with travelling (e.g., childcare, livelihood, financial). What's more, fearing potential discord and challenges to projects' legitimacy, known opponents are often prevented from attending public hearings by companies' private security contractors.³⁹ Lastly, EIA public information sessions are a direct bilateral corporate-community exercise, and do not formally require the involvement of third-party NGOs. As a result, stakeholder communities lack the presence of allies capable of translating the highly technical information presented at these sessions into an intelligible format required for local communities to grant *informed* consent.

³⁹ Interview, Ombudsman representative, 21/03/2014.

At a structural level, the EIA approval process has privileged the interests of companies due to the absence of a formal separation of powers between the MINEM and the Ministry of the Environment (MINAM). In 1991 the “Framework for the Growth of Private Investment Law” (Law No. DL-757) established MINEM as the sole supervisor of environmental regulations and EIAs pertaining to the sector. As several scholars have observed, a blatant conflict of interest has thereby been built into EIA approval given that the very ministry responsible for promoting mining investment has the exclusive authority to review and approve EIAs (Jaskoski, 2014; Bebbington, 2012; Perla, 2012). This dual function invariably favours the interests of mining companies as it undermines the robustness of the oversight process. Furthermore, the body within MINEM responsible for EIA review, the General Directorate of Environmental Affairs, has been chronically underfunded and under-staffed, reducing its capacity to thoroughly evaluate projects in the time required.⁴⁰

While Peru did not formally have an environmental ministry until 2008, since its creation MINAM’s role in the EIA review process has been effectively relegated to non-binding recommendations. In 2014, however, MINAM was granted greater authority over EIA review and approval, but it has since struggled to consolidate the centralization of environmental functions and authority. As Perla (2012: 81) notes, “[d]espite some improvements, however, the system still lacks credibility, and many actors consider that the political priority of promoting Peru as an attractive country to develop mining ventures trumps any considerations for environmental affairs.” Thus, as one would expect, the EIA

⁴⁰ Interview, former Deputy Minister of Environment, 05/05/2014.

review process has reinforced the immense freedom mining companies have to define/circumscribe the contours of their areas of influence (see Chapter 2).

Finally, Fujimori enshrined the power of foreign companies over local communities by rewriting the country's constitution.⁴¹ While the 1979 Constitution enshrined peasant and indigenous communities' rights to collective land ownership, the new 1993 Constitution made a clear and hierarchical distinction between the owners of surface and subsurface rights. According to Article 66, non-renewable natural resources are classified as "the heritage of the nation" with the state exercising is "sovereign" decision-making authority over the usage of subsoil resources. The distinction between surface and subsurface rights enables the state to effectively override communal land rights when matters of national interest are of concern. As Coxshall (2010: 43) notes, "This alteration undermined peasant community laws by restricting members' collective ownership rights to the surface of their land while allowing foreign-based mining companies to remove and profit from the sale of Peru's national heritage with the Peruvian state's authorization."

Crucially, the hierarchy between surface and subsurface rights has undermined the Peruvian state's obligation under international law to enforce indigenous communities' rights to free, prior, and, informed consent when extractive industry projects are of concern. As enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (a non-binding aspirational document), and the International Labour Organization's Convention 169⁴² (binding international law), states must formally obtain community

⁴¹ Written during a period of military rule (1968-1980), the 1979 Constitution is described as one based on "liberal and social democratic principles and which enshrined in law the social reforms undertaken by the progressive officers in power during the 1970s" (Cameron, 1998b: 220-221).

⁴² Peru ratified ILO 169 on February 2nd, 1994.

consent to mining projects in *voluntary* and non-coerced deliberative manner, *before* legal permission can be granted to companies. However, for a country that is highly dependent on mining FDI for economic growth and development, this constitutional distinction has enabled foreign companies to effectively exercise veto power over the process of free, prior, and informed consent given that their interests align with the owner of subsurface rights. Significant questions remain as to whether the state can/will implement free, prior, and informed consent processes,⁴³ much less respect community decisions to reject proposed projects.

3.2.1 Selective absence of the state and community engagement

Neoliberal reforms have also enabled multinational mining companies to exercise considerable discretion with respect to their community engagement activities. The process of structural adjustment has dramatically redefined the roles and capacities of the state; the country's dependence on mining FDI has enabled foreign capital to increasingly assume powers over rule making and enforcement. Consequently, companies' *de facto* service provision roles at the local level are only loosely regulated, supported by a tacit agreement between the state and foreign investors that informal institutions/voluntary governance mechanisms (i.e., CSR) will fill the regulatory void of weak, or simply non-existent, legislation. As part of a compromise designed to facilitate a modicum of governance while safeguarding continued investment, the Peruvian state has opted for a strategy known as *selective absence*:

⁴³ The implementation of free, prior, and informed consent in Peru has been fraught with difficulties due to the weakening of the central state. To date, the Ministry of Culture struggles to access the organizational and financial resources required to thoroughly identify indigenous communities who are eligible for free, prior, and informed consent processes, much less implement the law for new extractive industry investments.

While the state plays a clear regulatory role in some areas, it operates through an indirect delegation of authority to others. Through the regulatory sleight of hand afforded by these strategies, the Peruvian state aims to off-load many of the socioeconomic and political costs [and functions] associated with mediating mineral development without prejudicing its position within the international economic order (Szablowski, 2007: 74).

As a result, the state has intentionally placed itself in a “peripheral position” in order to maintain good terms with the industry, while providing civil society with some tools (see section 3.3.1) to govern the process of extraction-led development (Perla, 2012).

Though the Peruvian state has created a regulatory structure to govern mining companies’ community engagement activities, it represents is a soft framework that has minimal capacity to enforce robust and procedurally fair dialogue and development initiatives. As the World Bank (2005: 67) observes:

Despite all [the] legislation, the current regulatory and institutional framework has not yet created a setting in which the state can adequately monitor and enforce mining regulations and ensure that mining operations (whether large, medium, small, or artisanal) take specific steps to improve their social and environmental performance. In particular, the current system does not yet guarantee that mining operations adhere to strict environmental and social standards for each stage in the mining cycle.

Consequently, multinational mining companies have been able to exercise considerable discretion over the resources devoted to these activities, along with the scope of their inclusivity (i.e., the circumference of projects’ area of direct influence).

In 2001, MINEM’s General Directorate of Social and Environmental Affairs published its “Guideline for Community Relations”. This comprehensive 105-page document outlines a series of recommendations for companies to enhance the quality and efficacy of their engagements with stakeholder communities throughout the lifespan of their operations. It covers diverse issues such as due diligence in the identification of stakeholder groups, responsible conflict management, local development, employment,

and poverty reduction, among others (MINEM, 2001). The Guideline is significant in that it is the only state-based document to explicitly outline MINEM's behavioural expectations in the realm of community engagement beyond the legal requirements companies have to deliberate with affected communities during the EIA approval process (i.e., Law No. 335-96-EM/SG and Law No. 596-2002-EM, see above). While the Guideline espouses an amalgam of best practices derived from international multi-stakeholder initiatives, such as the IFC Performance Standards, United Nations Global Compact, and OECD Guidelines for Multinational Enterprises, they merely echo a series of activities that companies have already agreed to implement on their own. More importantly, as a set of guidelines, MINEM is unable to enforce their implementation and performance, effectively accepting that their application is up to the discretion of firms themselves (Perla, 2012).

Since the early-mid 2000s, the Peruvian state has begun to implement some formal rules governing community engagement. However, legislation has been aimed exclusively at enhancing the transparency with which MNCs report on their dialogue and development activities, with minimal enforcement capacities surrounding their implementation. For example, in 2003 MNCs were required to submit a "Sworn Statement of Social Development" (Law No. DS 042-2003-EM). According to this piece of legislation companies had to submit an annual inventory of all the sustainable development and poverty reduction projects they completed during the previous year. In 2008, MINEM introduced an additional layer of transparency through the "Regulation of Citizens' participation in mining" (Law No. 028-2008-EM), which required companies to clearly outline a community relations policy/program. Combined, these laws can assist affected communities in holding companies accountable by providing them with transparent

information to assess company performance. Yet, the nature and extensity of community engagement activities (i.e., type and scope) remain largely ungoverned; companies can still select what programs they wish to implement (regardless of their development and poverty reduction potential) and which stakeholder subgroups are eligible recipients.

Finally, the Peruvian state has been moderately more effective with respect to securing financial commitments for community engagement. However, although companies are now legally obliged to finance sustainable development and poverty reduction programs, the law continues to afford companies considerable flexibility over how monies are spent, and who can benefit. Since 2006, mining companies have been required to devote a portion of their discretionary revenues to sustainable and poverty reduction programs through a law known as the “Solidarity Mining Program” (Law No. DS-071-2006). Through this program, companies agree to reserve 3% of their net profits (i.e., post-tax) to sustainable development and poverty reduction initiatives in their areas of operation; 2% is devoted to projects at the local level, and 1% to projects at the regional level. Contributions to Solidarity Mining Program funds, however, are only made when annual metal prices exceed an agreed-upon baseline price. The baseline price is set as the “long term” metal price required for the company to generate “normal” profits; any price above that level represents a windfall requiring payment into the fund (Perla, 2012: 99). While funds do not always receive annual contributions given the volatile nature of mineral commodity prices, the main criticism of this discretionary spending program pertains to the manner in which the funds are governed (Arellano-Yanguas, 2011). The law allows funds to be managed exclusively by private trusts or proprietary NGOs; the lack of state/third-party oversight in fund management provides no guarantee that companies will,

in fact, distribute finances in accordance with the rules (i.e., 2% to local communities, 1% to the region). In fact, Perla (2012) has shown considerable variation exists in terms of how companies distribute these discretionary finances. What's more, MINEM has only recently required all mining companies to publish their annual contributions to the Solidarity Mining Program funds; prior to 2015 companies published information on their fund contributions on a voluntary basis.⁴⁴

As the aforementioned sections suggest, Peru's mining regulatory framework is heavily inclined towards the interests of FDI. While this has privileged the power of private capital over civil society, mining affected communities have recently been afforded a greater degree of governing agency in the process of extraction-led development through recent efforts to politically and fiscally decentralize state institutions.

3.3.1 The “localist” policy paradigm of resource governance

One of the recent governance innovations in Peruvian mining pertains to the devolution of resources and control over fiscal matters to the country's recently constructed subnational governments. Known as the *localist* paradigm of resource governance, it consists broadly of (a) the redistribution of resource rents directly to populations in producing areas; (b) increased citizen participation in decision-making processes pertaining to the spending of those rents; and (c) an enhanced role for non-state actors, such as MNCs and NGOs. The efficacy of this policy paradigm is premised on the simple notion that local populations – particularly those who reside in close proximity to industrial mining operations – are more familiar than distant central authorities with local conditions, and thereby know better how to spend resource rents to achieve poverty reduction and

⁴⁴ Interview, MINEM representative, 11/12/2014.

sustainable development. This policy paradigm has been advocated by prominent international development organizations such as the United Nations Development Programme and the World Bank, along with mining companies, who view revenue decentralization as essential for reducing asymmetries in the distribution of benefits that commonly underlay social conflicts over industrial mining activities. Fiscal decentralization schemes have been implemented in diverse mineral-rich developing countries such as Bolivia, the Democratic Republic of Congo, Indonesia, Madagascar, Nigeria, the Philippines, and South Africa (Arellano-Yanguas, 2011).

Following Peru's transition to democracy at the beginning of the 21st century, the government of Alejandro Toledo (2001-2006) initiated the process of political decentralization in 2002 intended to remedy the centralist governing tendencies that predominated the authoritarian era. This resulted in the creation of 25 regional governments (administrative jurisdictions formerly known as "departments"), 195 provincial municipalities, and 1832 district municipalities. Regional elections would be held on a four-year basis (2002, 2006, 2010, 2014) with provincial and district elections staggered in between. To complement their newly established roles and responsibilities, the country's subnational governments were also granted greater access to the tax revenues produced by large-scale natural resource-based activities that occurred within their respective jurisdictions (e.g., mining, oil, gas, hydroelectricity, forestry, and fishery).

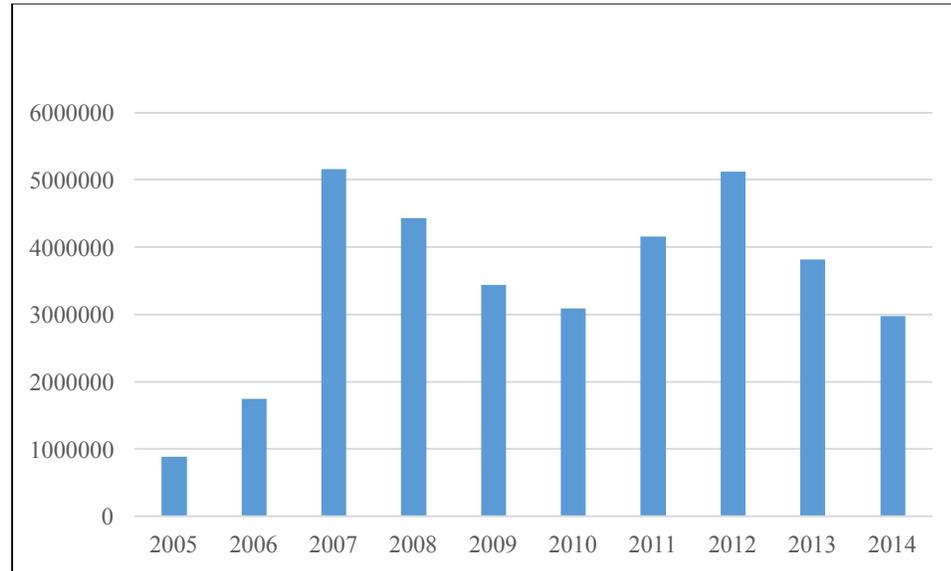
Taxes on specific economic activities in Peru are known as the *canon*, and since 1992, 20% of the annual income taxes mining companies pay to the central government have been redistributed back to producing regions through the Ministry of Economy and

Finance (MEF). According to MEF mining tax transfers, known as the *canon minero*, are to be reserved explicitly for poverty reduction and sustainable development programs:

regional and local governments [i.e., provincial and district] must use the proceeds of the Canon...to finance or co-finance public investment projects that include interventions aimed at providing universal access to public services that generate benefits to the community, and that fall within the competence of their level of government...These projects may not be considered, in any case, interventions for business purposes or those made by the private sector (MEF, n.d.).

Since the creation of new subnational jurisdictions and the onset of the global mineral commodity boom, key changes have been made to the distribution of the *canon minero*, with regional, provincial, and district governments receiving an increased share of the tax transfers. In 2001 the Toledo government increased the proportion of taxes transferred to producing regions from 20% to 50% (Law No. 27506). In 2004, as global mineral commodity prices rose dramatically, the government further modified this legislation to guarantee that local jurisdictions closest to the point of extraction (i.e. provincial and district municipalities) received a greater share. As a result, 25% of the annual transfer payment is directed to the regional government (of which 5% must be spent on universities throughout the region); 10% to the district municipality closest to the point of extraction (i.e. the local jurisdiction that hosts the operation); 25% to the provincial municipality closest to the point of extraction (i.e., the provincial jurisdiction that hosts the operation); and the remaining 40% to provincial and district municipalities located farther away from the point of extraction, to be distributed according to needs-based criteria. As Figure 3.3 demonstrates, over the course of the global mineral commodity boom period the total value of the *canon minero* transfers to subnational jurisdictions has increased dramatically. In 2007 *canon minero* transfers peaked at approximately \$ 1.55 billion US, and again in 2012 at \$ 1.54 billion US.

Figure 3.3: Total canon minero transfers to regions (thousands of Peruvian Nuevo Soles)



Source: INEI, n.d.

Despite the massive revenue influx into mining jurisdictions, the country's nascent subnational governments have often been bureaucratically ill-equipped to invest revenues in a manner that improves local lives and livelihoods (Ponce & McClintock, 2014; Arellano-Yanguas 2011/2012; Hinojosa, 2011). This has fueled frustration over the process of extraction-led development in general, and exacerbated the already salient perception that specific industrial mining operations do not benefit local members of civil society. As Bland & Chirinos (2014: 93) observe,

[Subnational] authorities...often do not have the experience, personnel, administrative systems, or resources to respond adequately. Weak institutional capacity also gives rise to a waste of resources, poor services, and corruption, especially in revenue-flush mining regions...Like the proverbial squeaky wheel getting the grease, sometimes being contentious is the only way to get the authorities to be responsive.

Ultimately, Fujimori's neoliberal reforms have had pervasive effects on the contemporary governance of extraction-led development. Not only has structural adjustment weakened the role of the central state, many of its recently constructed local tentacles have been

rendered impotent, leaving them unable to maximize the potential benefits of the devolution of authority and resources. This has created fertile conditions for open conflict over an array of issues that might otherwise remain latent under different institutional circumstances.

3.4.1 Conclusion

Peru's neoliberal economy has propelled this middle-income developing country to the forefront of global mining investment. The macroeconomic and mining sector reforms implemented during the Fujimori era have been indispensable for attracting much needed FDI and facilitating the growth of this strategically important sector. Yet, they have also underlain the recent proliferation of social conflicts as a result of the regulatory and institutional transformations they have produced.

First, the tax, environmental, and prior consultation regimes governing industrial mining activities have inherently privileged the interests and power of private capital, while creating few opportunities for civil society to formally and effectively participate in the social and environmental governance of extraction-led development. Due to the structural power foreign mining capital exercises over this resource-dependent country, MNCs have been offered highly favourable terms and conditions, which, in the context of the recent global mineral commodity boom have sparked well-founded concerns over environmental impacts (given the increased intensity and extensity of industrial mining activities) along with justifiable demands for a greater share of the material benefits. Consequently, non-institutional means of interest expression (i.e., social conflict) have become an increasingly necessary option for local communities to express interests, seek policy change, and influence the regulatory process.

Second, the strategic delegation of governing functions to market-based actors following the period of structural adjustment has reinforced the peripheral position of a state that already struggles to consolidate administrative authority across its territory and adequately fulfill service provision functions in remote portions of the country. As a result of the selective absence of the state, MNCs have increasingly filled regulatory gaps and service provision voids. At the local level, community engagement is one such manner through which this has been accomplished by MNCs claiming to operate in a socially responsible manner; yet, the nature and scope of their dialogue and development activities is up to their discretion, as the state has demonstrated an unwillingness to enforce robust and procedurally fair community engagements. As a result, mining companies are able to limit the number of stakeholder communities they view as legitimately included within their area of direct influence.

Finally, while the decentralization of fiscal resources to the country's recently constructed subnational governments has the potential to address some of the governing challenges of Peru's extraction-led development model, the state's pervasive weakness has resulted in an inability on behalf of many regional, provincial, and district bureaucracies to fully capture the benefits of the country's resource boom. Naturally, the localist paradigm of resource governance has generated high expectations of material gain within civil society; however, within the context of weak and ineffective subnational institutions it has resulted in unfulfilled or minimal poverty reduction and development impacts.

Thus, Peru's neoliberal mining economy and resource governance model can be understood as contributing to the aggregate permissive conditions for contemporary social conflict and violence. While the reform process has not sparked/triggered specific episodes

of social conflict and violence at the local level *per se*, it has tilted the political terrain upon which industrial mining activities take place towards a situation of contention and open conflict. The frequency and intensity with which social conflicts erupt around specific mining operations are largely attributable to local level factors, and as the subsequent case studies demonstrate, multinational mining companies have managed these conflicts with varying degrees of effectiveness depending on the local political economies of contention within which they are embedded and intra-firm factors that determine how they interact with civil society.

Chapter 4: Blood, Gold, and Minera Yanacocha's Traditional Approach to Security Governance

*"It's a situation of war, it's a situation of militarization. No dialogue is possible under these conditions."*⁴⁵

-Local activist #1, Celendín province

*"Minera Yanacocha has a very bad reputation in Cajamarca; people distrust the company greatly. They spend so much money on false advertising saying, "our dialogue prospers" or "dialogue is taking place in Cajamarca", when this is simply not the case."*⁴⁶

-Local activist #2, Celendín province

*"Cajamarca is a difficult place, but [Minera] Yanacocha has made things worse."*⁴⁷

-CSR consultant, Lima

The region of Cajamarca is situated in Peru's northern Andean mountain range along the border with southern Ecuador. With the exception of the residents of the capital city, its population is comprised largely of rural, peasant and indigenous communities who engage in subsistence activities along its mountainous hillsides. Despite the vast mineral wealth beneath its soils⁴⁸, Cajamarca remains one of Peru's most impoverished regions. A stark juxtaposition in material wellbeing exists between the foreign multinationals that have prospered from its sub-soil endowments and the adjacent hamlets that remain locked in a pernicious cycle of poverty and underdevelopment.

Conflict and violence have been closely associated with mining in this part of Peru. In the 16th and 17th centuries Cajamarca was the epicenter of imperial Spain's rapacious export of gold. A statue of Atahualpa in the capital city's central plaza – the Incan emperor murdered by the conquistador Francisco Pizarro following his peace offering of gold to the

⁴⁵ Interview 12/09/2014, translated.

⁴⁶ Interview 28/09/2014, translated.

⁴⁷ Interview 11/07/2014.

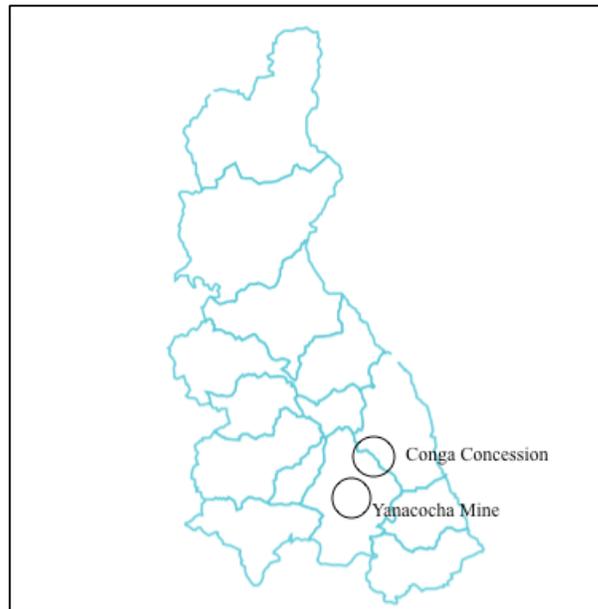
⁴⁸ It is estimated that Cajamarca is home to approximately 31% of the country's gold reserves, 9% of silver, and 3% of copper (MINEM, 2013: 29-30).

Spaniard – is a reminder of the brutality that accompanied the exploitation of the region's sub-soil. While the violence associated with contemporary mineral extraction no longer approximates the genocidal scale of the colonial epoch, it has nevertheless reproduced new forms of insecurity for locals. Today, the region has played host to one of the country's most protracted and violent social conflicts with the MNC, Minera Yanacocha S.A (MYSA).

MYSA is a joint venture between American-based Newmont Mining Corporation (51.35% ownership), Peruvian-based Compañía de Minas Buenaventura (43.65%), and the International Finance Corporation (5%). Since 1993 it has operated the Yanacocha gold mine; this flagship asset spans altitudes of 3500-4100 meters above sea level (masl) and is located 20 kilometers north of Cajamarca city. After more than two and a half decades of exploitation activities, Yanacocha continues to be the largest open-pit gold mining operation in Latin America. In addition, MYSA owns the rights to the Conga concession, a copper-gold porphyry deposit located 75km northeast of Cajamarca city at 3700 masl (see Figure 4.1). While the construction of Conga's critical infrastructure was slated to commence in 2010 following the approval of its environmental impact assessment (EIA), violent large-scale opposition forced the indefinite suspension of the project in 2012.

As I demonstrate in this chapter, MYSA illustrates a case of ineffective CSG. Relations between this corporation and stakeholder communities have been characterized by persistent conflict, despite efforts to manage unrest through socially responsible community engagement practices. Two factors explain the company's inefficacy as security governor. First, it has operated within a precarious socio-economic and politico-institutional environment. Chronic poverty, ineffective subnational governments, and

Figure 4.1: Location of Yanacocha and Conga operations within Cajamarca region



fragmented politics have transformed Cajamarca into one of the country's regions with the highest overall levels of social conflict. Its political economy of contention predisposes a challenging baseline security situation for the company. My analysis of the 2011/2012 Conga crisis indicates grievances were most pronounced in the project's area of indirect influence; communities there perceived high environmental threats, with their vulnerabilities accentuated by the region's ineffective local authorities, who have demonstrated a persistent inability to reduce poverty with the fiscal resources they receive through the canon minero. Additionally, Cajamarca's fragmented politics facilitated the rapid escalation of the conflict into a violent regional crisis, as several entrepreneurial political elites had parochial interests in adopting increasingly militant positions towards the company. Staunch anti-Conga positions, however, would not have been politically expedient were the company not already experiencing a deep-rooted crisis of legitimacy.

Second, MYSA's marginal effect has been to exacerbate, rather than decrease, an already conflict-prone situation. Its security governing inefficacy derives from a crisis of

legitimacy that has developed over two decades of highly tense, and periodically violent, community-firm relations. MYSA has relied heavily upon coercion to deter protest activities and quell escalations of social unrest, while selectively dispersing social investments among fence-line communities. Moreover, prominent episodes of environmental malfeasance have undermined the credibility of recent efforts to mitigate conflict risks through sustainable resource management activities. As I argue, intra-firm politics lay at the heart of its marginal effect on security. A traditional organizational culture appears to predominate, which has reduced the influence of its community relations/CSR sub-unit and led to considerable heterogeneity in the company's security outputs.

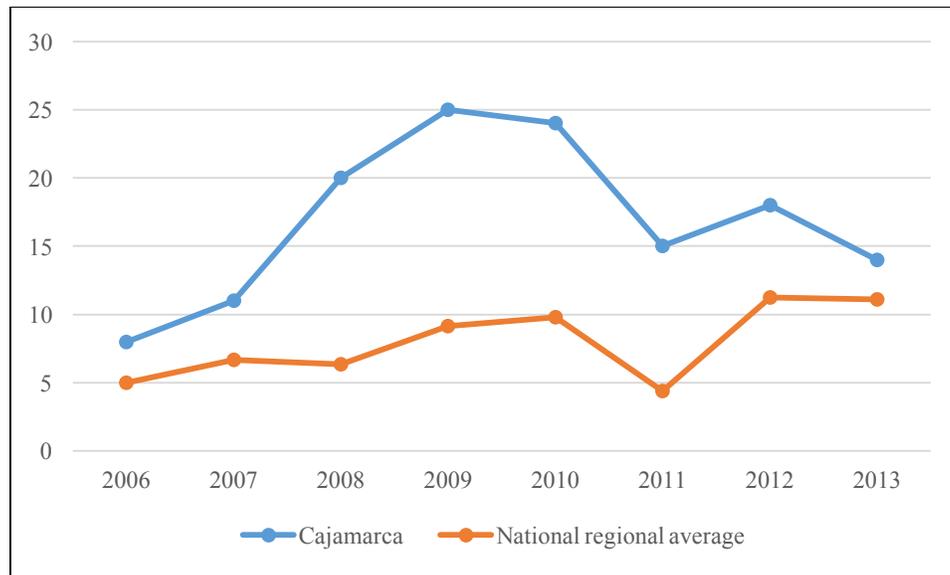
4.1.1 Understanding Cajamarca's political economy of contention

Cajamarca has one of Peru's highest social conflict risk ratings (Bland & Chirinos, 2014), ranking above the regional average across all social conflict types identified by the Ombudsman (see Figure 3.2). A large and impoverished rural population, ineffective local administrators, and fragmented politics have generated ripe socio-economic and politico-institutional conditions for protest and violence. *Ceteris paribus*, the region's political economy of contention poses a challenging baseline security situation for multinational mining companies to operate within.

With a total surface area of 33 317.5 km², Cajamarca is home to more than 1.5 million residents. According to Peru's National Institute for Statistics and Informatics

(INEI), approximately 49-55% of whom live below the poverty line, with 18-24% in conditions of extreme poverty (INEI, n.d.).⁴⁹ What's more, 68% of Cajamarquinos

Figure 4.2: Social conflict trends in Cajamarca region



Source: Defensoría del Pueblo, 2006-2013

reside in rural areas, relying on small-scale agriculture and pastoral activities for livelihood production. Since 1990, agriculture – the historically dominant mode of production – has been threatened due to the growth of the industrial mining activities (De Echave & Diez, 2013: 24-25). MYSA's entrance in 1991 initiated a dramatic transformation of the region's economy and territory. In 1990 mineral extraction accounted for 6% of its GDP, but by 2014 had grown to 27% with agriculture diminishing to 12% (BCRP, 2015; De Echave & Diez, 2013: 24-25).

While mining sector growth has had some positive knock-on effects through the development of lateral businesses, such as construction and hospitality, creating

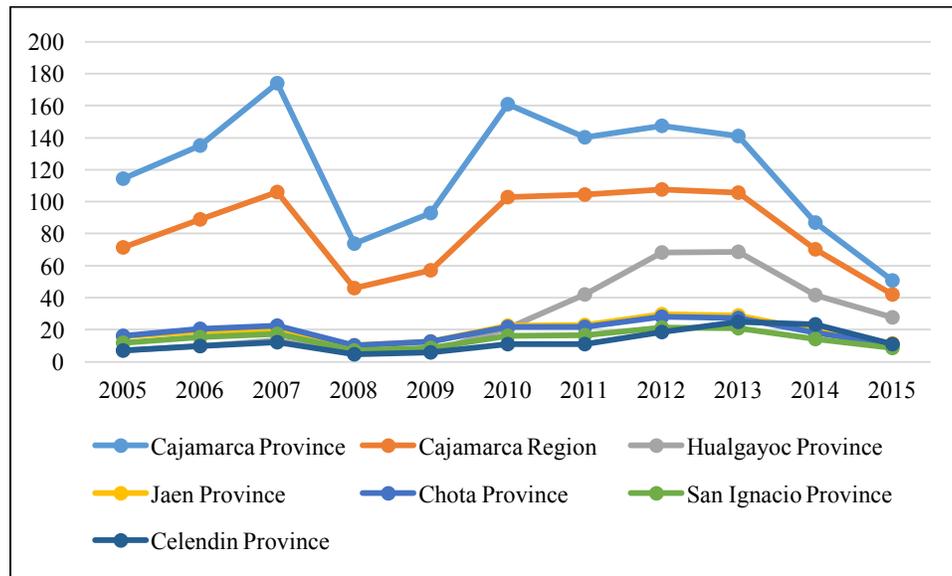
⁴⁹ The region has reduced poverty by approximately 30% since 2001, but it still remains 30% above the national average (INEI, n.d.).

employment principally in urban areas, it has produced little in the way of direct employment for the region's peasant and indigenous communities, while generating immense stress on traditional livelihoods as a result of an expanding extractive frontier. Today, approximately 47% of Cajamarca's surface area (1.5 million ha²) is covered by mining concessions (CooperAcción, 2012: 8). Industrial gold mining operations in the region, moreover, have relied primarily on open-pit cyanide heap leaching technologies; after rock is blasted away from mountainsides, it is then transported to massive leach pads where it is bathed in a sodium cyanide solution to chemically separate gold from ores. These methods have resulted in geographically dispersed, and long-term ecological impacts on rural communities. According to Bury (2005: 23), this type of mining has "led to a dramatic shift of landcover patterns and a widespread alteration of environmental processes in the region." As a result, many peasant and indigenous groups have experienced an accretive reduction of their traditional asset pool (e.g., land, freshwater).

While the sector's growth has adversely impacted many rural groups, it has also provided the region's governments with abundant fiscal resources to invest in poverty reduction and sustainable development initiatives. For example, over the course of the global commodity super-cycle Cajamarca experienced a 736% increase in mining royalties and tax transfer payments (De Echave & Diez, 2013: 55). Since amendments were made to the *canon minero* system in 2004, the provincial government of Cajamarca has received approximately \$396 million US in transfer payments, followed by the regional government of Cajamarca (\$274 million), and the provincial governments of Hualgayoc (\$94 million), Jaén (\$64 million), Chota (\$63 million), San Ignacio (\$47 million), and Celendín (\$42 million) (see Figure 4.3). Municipal governments have also benefitted substantially. Of

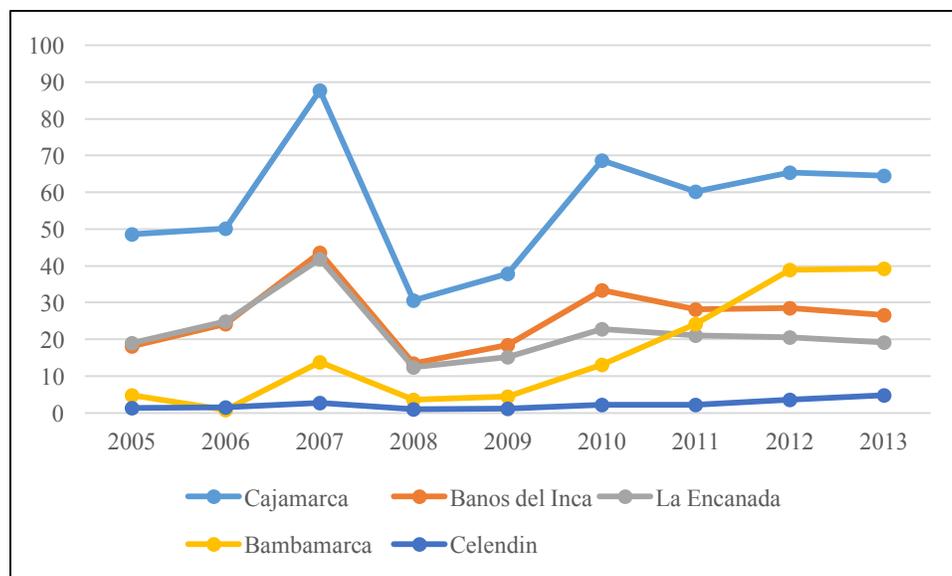
the region’s 127 districts, the municipalities of Cajamarca (Cajamarca province), Baños del Inca (Cajamarca province), La Encañada (Cajamarca province), and Bambamarca (Hualgayoc province) have been the top recipients (see Figure 4.4).

Figure 4.3: Top provincial recipients of canon minero (millions of Peruvian Nuevo Soles)



Source: SNMPE, 2005-2015

Figure 4.4: Top district recipients of canon minero (millions of Peruvian Nuevo Soles)



Source: INEI, n.d.

As noted in the previous chapter the MEF mandates that these monies be utilized exclusively for development and poverty reduction. Yet, despite the influx of revenues, many producing areas remain marred by poverty. For instance, the provinces of Celendín and Hualgayoc are among the poorest in the region, with approximately 66% and 60% of their respective populations living below the poverty line (INEI, n.d.). Sadly, these two examples are indicative of a pernicious trend throughout the region – the inability of subnational governments to transform fiscal revenues into poverty reduction, and otherwise perform basic functions that can enhance the living conditions of the populations under their respective jurisdictions.

Bureaucratic ineffectiveness has thereby been a central component of Cajamarca's political economy of contention, contributing to generally high levels of discontent in local and provincial politics, and with it, elevated social conflict risks. To assess the efficacy of the region's local bureaucracies I draw upon Ponce & McClintock's (2014) measure of bureaucratic capacity: the annual percentage of mining tax transfers spent. As these scholars note:

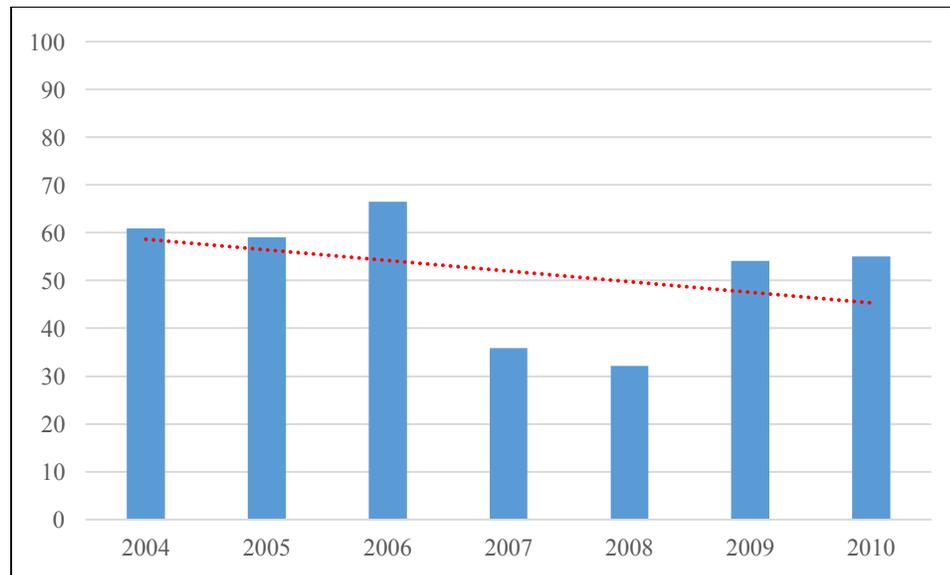
The percentage of transfers spent provides a good proxy for the capacities of local bureaucracies. Although the percentage of transfers spent is not a comprehensive measure, it is a necessary minimum requirement: if a bureaucracy is spending only a small percentage of its budget, it is unlikely to be responsive or accountable to citizens in other ways (Ponce & McClintock, 2014: 128).

As Figure 4.5 demonstrates,⁵⁰ local civil servants throughout the region are highly ineffective, spending on average only 51% of the transfers payments they receive. Moreover, the trend-line appears to indicate a decrease in capacity over time. Nascent

⁵⁰ I am grateful to Dr. Aldo Ponce and Dr. Cynthia McClintock for providing me with the raw data required to construct this figure through a personal email communication on April 13, 2016.

institutional structures, weak mechanisms of knowledge transmission and corruption are among the factors believed to be responsible for their limited development impacts.

Figure 4.5: Bureaucratic effectiveness in Cajamarca



As the Ombudsman's representative for Cajamarca lamented:

There is a lot of money going into the regional, provincial, and district governments through the mining canon, but it hasn't resulted in development as one would expect... First, if development projects are to be successful, they're going to require a high level of technical expertise. You need to understand the social and demographic characteristics of the region, which is primarily rural and peasant based; it's this portion of the population where the biggest problems of human development exist, malnutrition, infant mortality, quality of education, etc. What we've seen in these areas is that projects have been, how shall I put it, the most erroneous... Second, projects are often delayed for years because local authorities are still learning how to navigate the central government's public investment system. Simple projects can easily span several administrations... Another issue is corruption in the management of public resources. This is a problem at all levels of government in Cajamarca... Finally, we tend to see projects being used as political platforms during campaign periods, which end up serving the interests of candidates, not the population's needs.⁵¹

With respect to mineral extraction, the poor performance of local bureaucracies has contributed directly to the distributional asymmetries that emerge between operations'

⁵¹ Interview 15/09/2014, translated.

areas of direct and indirect influence. When communities from the latter category are excluded from accessing the indirect material benefits (i.e., tax transfers) while being forced to contend with the social and environmental risks inherent in industrial mining, community-firm conflict risks are greatly elevated.

Finally, the region's electoral politics have been a central component of Cajamarca's political economy of contention. The fragmented multiparty environment at the regional, provincial, and district levels has not only reinforced poverty and underdevelopment, but also enabled societal grievances to be easily channeled into non-institutional, and sometimes violent, means of interest expression. The number of political parties/candidates vying for office has steadily increased since subnational elections were first held in 2002, with winners often elected by a small plurality⁵², increasing the likelihood public office will be used to provide club, rather than public goods (Arce, 2014). Fragmentation, combined with the weak control national parties exercise over their local candidates, has also resulted in candidates utilizing social protest to distinguish themselves from potential rivals. Social grievances thereby run the risk of becoming highly politicized or being expressed through protest activities, particularly as elections approach.

Using the effective number of parties (ENP)⁵³ as a measure of political fragmentation, we see in Table 4.1⁵⁴ that Cajamarca ranks higher than the national regional average for the 2002, 2006, and 2010⁵⁵ regional elections, situating it among the most

⁵² In response to the low winning vote shares, the federal government mandated a minimum 30% plurality to hold public office in 2010. Failing to achieve this, runoff votes are held.

⁵³ ENP is a measure of electoral competition that weighs the number of parties competing in a given election against their popular vote share (see Laasko & Taagepera, 1979).

⁵⁴ I am grateful to Dr. Moises Arce for providing me with the raw ENP data used to construct this table in a personal email communication on November 13, 2015.

⁵⁵ These are the only election years for which verified ENP figures are available.

fragmented in the country. While provincial and district level ENP figures are not available, anecdotal evidence from the 2014 provincial elections indicate similarly high

Table 4.1: Political fragmentation in Cajamarca

Election Year	Cajamarca's ENP Value	Average Regional ENP Value
2002	5.69	5.63
2006	6.22	5.27
2010	6.49	5.43

levels of party competition (ONPE, 2014a/b).

In summation, the aforementioned socio-economic and politico-institutional features indicate MYSA operates in a region characterized by high generic social conflict risk. However, as security governing actors, multinational mining companies also exercise agency over the trajectory of social conflicts that emerge in response to their operations. Yet, MYSA's activities have increased, rather than mitigated, the potential for social conflicts to escalate into violence. In this regard one community leader aptly stated,

Despite having a lot of experience with social conflicts, Minera Yanacocha has never been particularly good at resolving them. Rather, what it has done is to *contribute to the sharpening of conflicts* to the point that people distrust the company greatly.⁵⁶

In the sections that follow, I examine how the company's behaviour within the region's political economy of contention has resulted in various episodes of violence and a crisis of governing legitimacy.

⁵⁶ Interview 28/09/2014, translated, my emphasis.

4.2.1 Fanning the flames of conflict: the 2011/2012 Conga crisis

MYSA's Conga project straddles the provinces of Cajamarca and Celendín, and is located at the intersection of the districts of La Encañada (Cajamarca), Sorochuco (Celendín), and Huasmin (Celendín). This operation involves the exploitation of the Perol and Chailhuagón deposits, which contain an estimated 3.1 billion pounds of copper and 11.6 million ounces of gold. It has an estimated productive capacity is 92 000 tons per day, and represents an investment of \$ 4.8 billion US (Newmont, 2013; De Echave & Diez, 2013: 71-72).

Following the approval of its EIA on October, 27th 2010⁵⁷, Conga became the subject of a social conflict that escalated throughout 2011 and 2012 into a violent regional crisis. On two occasions the Peruvian Armed Forces intervened, authorized by the President to restore law and order. When the conflict subsided, five people were dead, and several hundred injured, with an estimated \$18 million US in damages reported.⁵⁸

According to Newmont Mining Corporation, Conga's EIA was the product of 10 years' worth of hydrological and engineering studies, and a series of public consultations with approximately 16,000 stakeholders (Newmont, n.d.). The EIA determined 32 hamlets from the aforementioned districts to reside within Conga's area of influence, 10 inside the immediate borders of the proposed project.

⁵⁷ Conga's EIA was submitted to MINEM on February 9th, 2010. According to former Deputy Environment Minister, Jose de Echave, MINEM approved the EIA with minimal scrutiny due to a combination of political pressure, and a paucity of institutional resources within MINEM's General Directorate of Environmental Affairs. Interview 31/07/2014.

⁵⁸ Jorge Loayza. "El día en que Celendín perdió cuatro pobladores por oponerse a Conga". *La Republica*. Monday July 10th, 2012; N.a. "Paro en Cajamarca deja pérdidas por más de S/. 60 millones." *La Republica*. Monday July 10th, 2012.

The trigger for the 2011-2012 conflict pertained to the operation's environmental risks. Specifically, four of five lagoons located within its borders would be adversely affected in order to develop the project. The Perol and Mala lagoons would be drained to access mineral deposits, while the Azul and Chica lagoons would be converted into tailings ponds to contain effluents. Locals insisted these river basins supplied numerous downstream communities. To allay concerns, the company proposed to increase the total supply of water by converting the remaining Chailhuagón lagoon into an expanded natural reservoir, which would "provide year round water for the communities located downstream" (Yanacocha, n.d.: 7). According to company representatives, this resource management project was the hallmark of the company's "water first" approach to conflict management.⁵⁹

Critics, however, argued the reservoir would not offset Conga's geographically diffuse impacts. As the former Deputy Environment Minister, Jose De Echave commented:

It did not have an ecosystem focus. When the company says "currently there are 1.5 million cubic meters of water in the lakes, and we're going to construct a reservoir that is going to hold 3.5 million cubic meters of water, so there's going to be more water", any student of hydrology can correctly tell you that this is going to drastically alter the Andean highland ecosystems around the mine...If you want to talk about the quantity of water, don't compare natural lakes with a constructed reservoir, because right next to the lakes are springs, natural wells, and wetlands. If you want to talk about the quantity of water, then you have to address the fact that you are drying up natural sources which will in turn dry up the entire area, the whole ecosystem!⁶⁰

⁵⁹ Interview #1 28/09/2014, interview #2 28/09/2014.

⁶⁰ Interview 31/07/2014, translated.

The lagoons quickly became a symbolic and literal battleground for the region's peasant and indigenous groups. *Rondas campesinas*⁶¹ maintained constant vigilance over the lagoons in order to prevent heavy machinery from encroaching. Following a series of roadblocks erected by protestors from the district of La Encañada⁶², MYSA convened a *mesa de diálogo* (roundtable dialogue) on October 28th, 2011. Representatives from the company and central government met with the regional president, and the mayors of La Encañada, Huasmin, Sorochuco, and Chugur districts. While negotiations facilitated agreement with La Encañada regarding local procurement, it failed to resolve tensions over environmental risks.

To force a reevaluation of Conga's EIA protest leaders opted for direct action. On November 24th, 2011 a general strike was announced in which 3000 people, primarily peasants, led by the mayors of La Encañada, Huasmin, Sorochuco, Celendín, and Bambamarca blocked interprovincial highways and mine access roads. Approximately 1500 more marched to the Perol lagoon to stave off heavy machinery. The ensuing five-day standoff culminated in a violent confrontation with the Peruvian National Police (PNP)

⁶¹ Autonomous peasant patrol groups that were active in local self-defence during the country's internal conflict.

⁶² Reflecting on the initial stages of the conflict, one former CSR consultant for MYSA argued that despite the salience of the environmental grievances, material economic concerns were also an important factor: "In the case of Conga it is about the water now, but the conflict started because Yanacocha was building an access road during the early works phase. That work was blocked for five or six months because locals were [upset] they weren't being engaged to do the work. So the mayor of La Encañada stepped in and said, "I want money from Conga to support our district development program or we're going to strike." And while he didn't succeed, one of the things it did was to crack open the door for the anti-mining people at the tail end, and as a result the people who hate Yanacocha for all sorts of reasons moved in. Had the company managed its local procurement better, and done a better job preparing its response to a mayor that wanted money, the dominos may not have fallen the way they did when they did." Interview 11/07/2014.

in which 20 people were injured, 2 gravely.⁶³ Many protestors had travelled from districts excluded by the project's EIA (specifically, Celendín and Bambamarca), motivated by the geographically diffuse impacts they believed Conga would generate. Summarizing the decision to partake in 2011, one *rondero* from Celendín remarked:

The greatest riches we have in the area are the lagoons, the headwaters... The greatest wealth we have for our agriculture and our lives is the water... If the time comes when they are going to shoot and kill us... we welcome death because we're defending the future for our younger generations, the future of our unborn children... That is the position of the peasants and of the rondas campesinas.⁶⁴

Fearing further escalation, the central government declared a 60-day state of emergency on December 5th, 2011 in the provinces of Cajamarca, Celendín, Hualgayoc, and Contumaza. In response, MYSA temporarily suspended the project, agreeing to submit Conga's EIA for reevaluation and reengage with stakeholders.

The project's suspension, however, ushered in a new phase of conflict characterized by escalating tensions. To minimize the conflict of interest associated with MINEM's EIA approval process (see Chapter 3), the central government commissioned an independent 3-member team of international experts to critically review the document and recommend changes. Cajamarca's regional president, Gregorio Santos⁶⁵ declared this response

⁶³ One protestor was left paraplegic after being shot in the abdomen, while another was blinded in one eye after being shot in the face, see, n.a. "Herido en protestas contra el Proyecto Conga demanda ayuda para ser operado." *La Republica*. Sunday February 26th, 2012.

⁶⁴ Interview 28/09/2014, translated.

⁶⁵ While Santos eventually became a central figure in Conga's opposition movement, leading various street protests against MYSA and the central government, he is regarded as having adopted a populist position for parochial gain. Santos did not join the protest movement until July 2011, nine months after EIA approval. In May 2010, he was even reported to have met with MYSA officials during which he suggested they make moderate revisions to Conga's EIA "so that communities would calm down". See, n.a. "Gregorio Santos sobre Conga "Ahora es un tema de licencia social"". *El Comercio*. Monday January 3rd, 2012.

illegitimate, demanding the EIA be conducted anew and not preclude project rejection. With the support of a local NGO, the Training and Intervention Group for Sustainable Development (GRUFIDES),⁶⁶ he commissioned a separate EIA. While this parallelism boosted Santos' political profile, it also served to polarize debate and decrease the likelihood of a peaceful settlement.⁶⁷

Additionally, MYSA's strict adherence to its community engagement status quo further contributed to the eventual escalation of the conflict. With Conga temporarily suspended, opposition was strengthening in the districts of Bambamarca and Celendín, however the company squandered an opportunity to engage with a broader cross-section of stakeholders. As the Ombudsman's Cajamarca representative observed:

For example, during the EIA reevaluation, the people of Bambamarca wanted to be heard, but the company wouldn't listen. They claimed the project was located on lands that fell within district's jurisdiction, and would also affect their water supply because the Azul lagoon was the principal source of potable water for the municipality. So there was a territorial claim, which implied they be eligible to receive fiscal resources through the mining canon. But there was also an environmental claim, which implied they had the right to be included in the population required to grant the project a social license. But they weren't consulted, and this certainly contributed to the conflict escalating into a regional crisis.⁶⁸

By ignoring indirect stakeholder communities, MYSA effectively impelled them to act in solidarity with and increasingly militant regional president, who encouraged a protest campaign that would eventually elicit a coercive response from the central state.

⁶⁶ Formed by Father Marco Arana (now leader of the political party, Tierra y Libertad) in the early 1990s, GRUFIDES provides associational space for peasant communities in Cajamarca to discuss and respond to environmental issues.

⁶⁷ Observers attribute the early radicalization of Conga opposition to a political rivalry between Santos and two potential candidates for the 2014 regional presidency, Wilfredo Saavedra (leader of the Cajamarca Environmental Defense Front) and Marco Arana (founder of GRUFIDES and leader of the political party, Tierra y Libertad). Interview 05/12/2014; Javier Torres. "Conga: batalla final?" *Diario 16*. Tuesday April 10th, 2012.

⁶⁸ Interview 15/09/2014, translated.

Throughout the EIA reevaluation process (December 2011 to April 2012), MYSA participated in bilateral deliberations and social investment activities. Principally, the company utilized its “Days of Dialogue” program, which consisted of “scheduled dates and times at the [company’s] Public Information Offices for citizens to meet with Project team members and have their comments and ideas recorded as part of the Conga EIA review process” (Newmont, n.d.). These deliberations were convened with locals from the districts of Huasmín, La Encañada, and Sorochuco (i.e., the area of direct influence), and to a lesser extent, the district of Celendín (Ibid.). The company insisted, moreover, its activities were inclusive, transparent, and comprehensive.⁶⁹

However, interviews with key informants suggest deliberations were much more restricted than publicly pronounced, and designed to strengthen the company’s social license with fence-line communities. One representative from the Association of Rural Educational Services (SER)⁷⁰ commented:

They only worked with...the people who resided in the first ring around the Conga concession. But the second ring, the third ring, and so on, they didn’t have any engagement with these people. So [Minera] Yanacocha could say that people wanted Conga to go ahead...but in the areas outside of that, such as [the districts of] Bambamarca, Hualgayoc, Baños del Inca, and Cajamarca [city], Yanacocha didn’t have the patience and delicacy to get close to these populations. This is because they think they only have to talk to people immediately surrounding the project, and not those outside who are still affected by their activities!⁷¹

The Ombudsman’s representative for Cajamarca echoed this observation:

Since the first public hearings and throughout the whole EIA reevaluation process, communities from the area of indirect influence were prevented from engaging with the company. While in theory anyone could participate in the company’s dialogue sessions, they weren’t as accessible as the company suggests. In order to generate

⁶⁹ Interview 19/09/2015, translated.

⁷⁰ This well-respected Lima-based NGO seeks to promote human rights and development for impoverished peasant and indigenous communities.

⁷¹ Interview 10/09/2014, translated.

the greatest acceptance, the company has sought to engage those with whom they already have a good relationship, while trying to shackle those from outside.⁷²

Finally, one activist from Celendín district derided what he perceived as tokenistic engagements:

What happened on the dialogue days? They spoke about things that had nothing to do with the Conga project! They talked about swine flu, or how to improve your local business, all sorts of things that had nothing to do with the project. I know because I participated and refused to sign their agreement saying that we granted the company a social license...Those “dialogues” they say they’re having with the people are a lie...Conga’s stakeholders are broad based, they’re more than what were mentioned in both the original and reformulated EIA, but the company didn’t engage communities with that reality in mind...Our people are fighting to be properly included in discussions about the impacts of the project.⁷³

While MYSA utilized dialogue, its activities were incommensurate with the spatial dynamics driving Conga opposition. By effectively excluding the most aggrieved from deliberation, direct action became the only option for indirect stakeholders to force the company to credibly commit to meaningful dialogue.

Similarly, the company’s development activities failed to manage conflict given their historic focus on fence-line communities. MYSA’s poverty reduction and development projects are executed by its proprietary NGOs, the Asociación Los Andes Cajamarca (ALAC) and Foncreagro, who work in areas of health care, education, agriculture, and public infrastructure. For the Conga project, the company earmarked \$2.8 million US to help small-scale farmers access new markets for their products; \$6.3 million US to reduce child malnutrition; \$880 000 US to develop schools; and \$1.9 million US to enhance access to potable water. Moreover, company officials stated that ALAC and

⁷² Interview 15/09/2014, translated.

⁷³ Interview 03/07/2014, translated.

Foncreagro's activities would benefit both direct and indirect stakeholders (Newmont, n.d.).

However, the MYSA's social investments have traditionally been reserved for its direct stakeholders. Historically 88% of the company's discretionary social investments have been channeled into fence-line communities (Perla, 2012: 129). What's more, the company's development projects have had a reputation for reproducing patron-client relationships. As the Ombudsman's representative for the region remarked,

Anytime there has been a problem with Minera Yanacocha, whether real or perceived, the company has tried resolve the issue through the provision of some sort of benefit, public works, social investments, etc. That was certainly the strategy when the company first entered the region, and I think it has remained its *de facto* strategy up until recently.⁷⁴

Thus, many indirect stakeholder communities have remained skeptical that MYSA's efforts to initiate development projects with them during periods of social turmoil have are veiled attempts to coopt consent. For instance, in March 2012 seven Foncreagro employees were even taken hostage by the residents of the town of Chugur, allegedly at the behest of the town's mayor.⁷⁵

Ultimately, the company's community engagement activities were incommensurate with the spatial dynamics undergirding Conga opposition. In theory, MYSA could have circumvented this problem by participating in multilateral deliberative fora and increasing support for development activities at the regional level, but it largely eschewed such a strategy. Crucially, the company avoided participating in *mesas de diálogo*.

⁷⁴ Interview 15/09/2014, translated.

⁷⁵ N.a. "Cajamarca: Gobierno Regional informa que hay 3 mil pobladores decidiendo el futuro de 7 'retenidos'." *La Republica*. Friday March 16th, 2012.

In late December, 2011 following the first state of emergency, representatives from the central government organized a meeting between MYSA and officials from the regional government of Cajamarca, the provincial governments of Bambamarca, Celendín, and Contumaza, and various mayors from districts surrounding the project. However, this forum was immediately stillborn as Gregorio Santos refused to participate reaffirming his position that the EIA be conducted anew.⁷⁶ This early failure of multilateral dialogue not only illustrated Santos' hardline position but also falsely signaled to MYSA the futility of multilateral engagement. However, company officials would eventually admit that MYSA's retrenchment at this juncture was a costly mistake. One community relations representative stated, "we never had a proactive strategy to conflict prevention and resolution in my opinion; after the mandatory EIA consultations we basically stopped communicating with the broader public", adding that MYSA's *de facto* position was to rely on the central government to manage the conflict.⁷⁷

After months of protests between January and March 2012, on April 17th the team of international experts declared the project environmentally sound. While they recommended more rigorous water conservation efforts, Conga was granted formal legal approval. This action initiated a rapid deterioration of the fragile stalemate situation.

On May 31st, 2012 protest leaders initiated a regional strike, uniting urban groups in Cajamarca, Bambamarca, and Celendín, with peasant groups who had been occupying the lagoons. Believing the situation had become too incendiary, MYSA withdrew

⁷⁶ N.a. "Hoy se instala la mesa de diálogo por Conga sin autoridades de Cajamarca." *La Republica*. Tuesday December 27th, 2011; N.a. "Gregorio Santos y alcaldes de áreas de influencia del proyecto minero se reúnen para fijar su posición." *La Republica*. Wednesday December 28th, 2012.

⁷⁷ Interview 19/09/2014, translated

completely from stakeholder dialogue.⁷⁸ By June 6th, more than 27 people had been seriously injured in Cajamarca city alone following clashes with police.⁷⁹ The worst violence, however, would not emerge until one month later in two localities outside the project's area of direct influence.

On July 3rd and 4th the districts of Celendín and Bambamarca became the sites of the Conga conflict's deadliest days. On the 3rd the residents of Celendín convened in the township's central plaza to protest against their mayor's newfound support for the project.⁸⁰ While protestors insisted they were largely peaceful⁸¹, a small contingent attempted to take over city hall to force the mayor's ouster, allegedly shooting two police officers in the process.⁸² As a result, protestors were repelled by the PNP and contingent of the Peruvian Armed Forces who had been deployed to the region 4 months prior.⁸³ During the ensuing confrontation security forces were accused of using excessive force in support of the

⁷⁸ Interview 19/09/2014.

⁷⁹ N.a. "Cajamarca: número de heridos por enfrentamientos aumenta a 27." *La Republica*. Wednesday June 6th, 2012.

⁸⁰ In the early phases of the conflict Celendín's mayor, Mauro Arteaga, publicly opposed Conga. However, on July 1st he and 64 other mayors from the region were invited to Lima to meet the Peruvian President, Ollanta Humala, in which the central government promised to invest greater mining revenues for local development projects. Following this, Arteaga was said to have changed his position. Elizabeth Prado, "Gobierno evaluó con 65 alcaldes de Cajamarca avances de 108 proyectos." *La Republica*. Friday June 29th, 2012.

⁸¹ Interviews #1 and #2 27/09/2013; Interview #1, #2, and #3 28/09/2014.

⁸² N.a. "Ministerio del Interior: policías sí fueron heridos por arma de fuego en Celendin." *La Republica*. Thursday July 5th, 2012.

⁸³ In early April 2012 as protests ramped up in anticipation of the EIA decision several thousand members of the PNP and Peruvian Armed Forces were deployed to Cajamarca region. Approximately 1000 were deployed to Celendín where they occupied the district's sports coliseum, while another 300 were deployed to Bambamarca where they occupied the district's abandoned penitentiary. N.a. "Más de 500 Policías y militares se desplazan a Cajamarca por posibles proestas." *La Republica*. Saturday April 7th, 2012.

interests of the company and central government,⁸⁴ allegedly firing from helicopters and using snipers. Residents described the events as “a civil war”, as security forces shot at protestors “without any degree of compassion”.⁸⁵ Following hours of roving street battles, four were killed and dozens injured by gunfire and teargas.⁸⁶ One day later, similar events occurred in the district of Bambamarca and Cajamarca city after protests erupted denouncing the events in Celendín. In Bamabamarca one person was killed and six others injured after police and military forces clashed with protestors who convened in the district’s central plaza.⁸⁷ In the regional capital Cajamarca clashes broke out in the streets surrounding the city’s main square after GRUFIDES founder, Father Marco Arana, was brutally arrested during a silent protest.⁸⁸ This wave of violence prompted the central government to declare a second state of emergency in the provinces of Cajamarca, Hualgayoc, and Celendín. In September 2012, following international outcry, MYSA declared it would postpone the project indefinitely.

While Cajamarca’s political economy of contention facilitated the escalation of the 2011/2012 conflict, the company’s marginal effect was nevertheless negative. Dialogue and development not only failed to prevent the conflict from escalating, but contributed to

⁸⁴ One SER representative who conducted investigations into alleged human rights abuses at Celendín commented, “[T]he police had orders from Yanacocha to shoot [protestors]...I spoke with a few police officers and they said they had orders from officials that, “if you have to kill people, then kill them.”” Interview 10/09/2014, translated.

⁸⁵ Interview 28/09/2014; interview 29/09/2014, translated.

⁸⁶ Jorge Loayza. “El día en que Celendín perdió a 4 pobladores por oponerse a Conga.” *La Republica*. Sunday July 8th, 2012.

⁸⁷ N.a. “Sigue la ola de violencia: confirman un cuatro civil muerto durante enfrentamientos en Cajamarca.” *La Republica*. Wednesday July 4th, 2012.

⁸⁸ N.a. “Marco Arana fue detenido por la Policía Nacional.” *La Republica*. Wednesday July 4th, 2012.

the eventual outbreak of violence. Ultimately, a deep rooted crisis of legitimacy undergirded the company's community engagement failures. Many Cajamarquinos remain deeply skeptical of MYSA's socially responsible conflict management activities given past their experiences.⁸⁹ As the Peruvian Ombudsman's representative stressed, "while the company has made great effort to change its image and to have better community engagement protocols, all that's happened in the past has made it extremely difficult for it to change peoples' impressions."⁹⁰ The company's poor reputation not only enabled political entrepreneurs to easily mobilize and escalate opposition to Conga on environmental grounds, but made it rational for MYSA to circumscribe and later withdraw from dialogue when it was arguably required most. The iterative interactions Cajamarquinos have had with MYSA effectively precluded MYSA's community engagement failures during the Conga crisis. As the former Deputy Minister of Environment, Jose de Echave, commented, "Conga [was] a case of accumulated impacts...It [was] not only a conflict about the project itself, but a conflict over 20 years of tremendously complicated relations."⁹¹ One local activist expressed this with greater candor:

Since Minera Yanacocha entered it's demonstrated complete arrogance. After all the conflicts – 2002, 2004, 2006 – they review their conduct and conclude, "No we're not at fault. We really haven't done anything wrong." In 2002 after Choropampa they said that. In 2004 after Quilish they said that. In 2006 after Combayo they said that. And in 2012 after Conga, they said it again. So you tell me, do you think people are going to have any confidence in the company? Probably not!⁹²

⁹⁰ Interview 15/09/2014, translated.

⁹¹ Interview 31/07/2014, translated.

⁹² Interview 12/09/2014, translated.

Below, I examine several landmark events in order to contextualize MYSA's security governing failures during the 2011/2012 Conga conflict. As I demonstrate, community-firm relations at its flagship Yanacocha gold mine have been characterized by persistent power imbalances, socio-environmental malpractice, and a heavy reliance on coercion in response to social conflict.

4.3.1 Tracing the origins of MYSA's governing illegitimacy

MYSA began operating in Cajamarca in the early 1990s in the midst of Fujimori's neoliberal reforms designed to attract FDI (see Chapter 3). In 1992 the company began purchasing land in the districts of Cajamarca and La Encañada for the Yanacocha mine, and conflicts quickly arose over its land acquisition practices as several communities accused MYSA of deceiving them about value of their lands or coercing them into selling. The central state's historic absence from the region enabled MYSA to fracture the collective bargaining power of local communities, as it negotiated bilaterally with landowners (Arce, 2014: 86). Consequently, many accepted between \$46-92 US per hectare, and if landowners objected, the company initiated legal proceedings with the state, which then forcibly expropriated lands (De Echave & Diez, 2013; Kamphuis, 2011; Tanaka & Melendez, 2009). Even after more than two decades, this first contact continues to affect stakeholders' impressions of the company. As Zavaleta (2013: 117) notes:

[W]ithin an environment of inequality and coercion in the process of negotiation and purchasing of lands, was an unfavourable first impression for the company that generated amongst land owners a sense of having been swindled [...] a significant number of [people] who protested against the Conga project [in 2011-2012] mentioned this first contact as an important factor in their opposition to Yanacocha's operations in Cajamarca.

While this generated resentment among many who were displaced, the company's environmental performance and responses to social opposition have undeniably hindered its contemporary social image.

Despite a proclaiming to be the “the mine that does not contaminate”, between 1993 and 2001 Yanacocha was the subject of twelve allegations environmental malfeasance (see Appendix #4), with one incident becoming emblematic of its malpractice. On June 2nd, 2000 a truck contracted to transport mercury (a gold amalgamation agent) accidentally spilled 151 kilograms of the toxic substance along a 43km stretch of road connecting the communities of Choropamapa, Choten, Magdelana, and San Juan. Hundreds of people were directly exposed, many of whom subsequently suffered the effects of mercury poisoning.⁹³ MYSA immediately denied responsibility, claiming onus resided with its subcontractor, RANSA transportation company. While MYSA eventually compensated some families, they were required to sign contracts relieving the company of liability (De Echave & Diez 2013: 83). Tensions over the spill, however, simmered for close to a decade. On May 16th, 2009 several communities who claimed they were still affected blocked the main entrance to the Yanacocha mine. However, before a dialogue could be forced, approximately three hundred members of the PNP's special operations unit dislodged protestors, injuring dozens in the process (CooperAcción, 2012: 12). For many Cajamarquinos, the Choropampa mercury spill is symbolic of the company's socio-environmental indifference and unwillingness to resolve stakeholder grievances through dialogue.

⁹³ Unaware of its high toxicity, several locals collected the metallic substance by hand believing it to be of high value. MYSA even paid some to retrieve it from the highway, but failed to provide them with proper protective equipment (Arce, 2014: 89).

Following the spill, social opposition began to proliferate, increasing the number of violent encounters Cajamarquinos had with MYSA, particularly when expansions to its operations were concerned. In 2004, MYSA sought to exploit an estimated 3.7 million ounces of gold located beneath Quilish mountain. Notwithstanding its cultural significance to indigenous groups, Quilish is an “aquiferous cushion” (i.e., semipermeable rock) that supplies approximately 70% of freshwater to downstream hamlets and Cajamarca city (Li, 2015). Accordingly, the project generated widespread concern over its freshwater impacts. While it remains unclear whether the project’s environmental risks were empirically founded, MYSA’s environmental reputation was sufficient to galvanize opposition (Arce, 2014; Tanaka & Melendez, 2009).

The company’s community relations activities also compounded matters. As a highly compartmentalized firm, MYSA has had difficulty articulating coherent positions to stakeholders. Tanaka & Malendez (2009: 79) note its:

distinct management units have failed to coordinate efforts when there should be a single and unified strategy...At times it appears that the efforts of community relations staff lose out to those of engineers or geologists, or the people in charge of operations. As one company consultant described, “The community relations manager says one thing, and the mining engineer in the field does another; the former are fools who care about the people, the other is only interested in rocks.”

During the initial stages of the Quilish conflict, community engagement was driven by the firm’s operational sub-unit. One industry CSR consultant present during internal discussions at the time observed this intra-firm dynamic, noting its effects:

The community relations side was saying, “we’ve got the drill permit, but we shouldn’t drill just yet, we need to take our time and go slow...there’s a process and we need to talk to the community, this is something that’s going to take a while.” But the head of drilling, the head of exploration basically said, “fuck that, we’ve got the permit, we’re drilling tomorrow” and he begins to mobilize the drill rigs [in the concession area]. These two sides clearly weren’t aligned; it was an internal problem, and the external perception of it was that the company was again lying to

the people. Communities were thinking, “we’ve been lied to, they’re playing us for the fool” and as a result Cajamarca mobilized against the company.⁹⁴

On September 2nd two thousand protestors occupied the Quilish encampment to stop the project. MYSA immediately declared them illegal invaders, and requested 120 members of the PNP’s special operations unit to forcibly remove them from the site injuring dozens on both sides (CooperAcción, 2012: 11). After their removal protestors regrouped to block a local highway supplying the Yanacocha mine, but were again violently dispersed by police and the company’s private security force (Arce, 2014: 94). From there, opposition grew in scope as word spread to the regional capital, drawing the ire of urban groups. As a result, a regional strike was declared on September 7th in which approximately 40 000 people throughout the region protested the expansion.⁹⁵ On September 16th, MINEM repealed Quilish’s legal license, forcing the company to abandon the project.

Like Conga, the militarization of Quilish could have been mitigated at the very least by multilateral dialogue. However, in the years leading up to the conflict MYSA withdrew from three separate *mesas de diálogo* established in the wake of Choropampa (Arce, 2014: 99). Consequently, it fueled a belief among many Cajamarquinos that the company was not committed to peaceful conflict resolution procedures, but rather, favoured coercive deterrents instead. The company’s subsequent activities would do more to confirm, rather than allay such beliefs.

That same year, another operational expansion generated social conflict that escalated into violence. Concerned about the possible impacts of the proposed Zanja gold

⁹⁴ Interview 11/07/2014.

⁹⁵ During this strike violence broke out in Choropampa after police fired rubber bullets and teargas at protestors.

mine⁹⁶ on a local watershed, communities in the provinces of Santa Cruz and San Miguel attempted to occupy the exploration site on November 16th, 2004. Upon arriving at the encampment, approximately 200 protestors clashed with MYSA's private security contractors, leading to the death of one protestor, Juan Montenegro Lingán, and severely injuring two others. During the confrontation vehicles, equipment, and a large section of the encampment were burned down (Triscritti, 2013: 439; CooperAcción 2012a: 11). While this action forced the project's suspension, the mine initiated operations in 2010.

Finally, in August 2006 deadly protests erupted following a proposal to expand operations at the Carachugo sector of the Yanacocha mine. This expansion involved the construction of a dam that residents in the nearby town of Combayo feared would restrict their access to water. Additionally, many were aggrieved by a lack social investments in the community, along with what they perceived as the company's unwillingness to hire locals. To facilitate a resolution, locals requested GRUFIDES act as a mediator, however, MYSA rejected this proposal viewing the NGO as inherently hostile to the mining industry.⁹⁷

After failing to negotiate a settlement, violence erupted in Combayo on August 2nd when approximately 190 police and the private security personnel dispersed protestors who had congregated in the town's center. During the confrontation one protestor, Isidro Llanos Chavarria, was killed (De Echave & Diez 2013: 85; Kamphuis, 2012: 549; Tanaka &

⁹⁶ While this project does not technically fall under the ownership of MYSA as the IFC maintains no ownership stake, it is owned and operated by a joint venture between Newmont Mining Corporation and Compañía de Minas Buenaventura (i.e., the two largest owners of MYSA).

⁹⁷ The company maintains a combative position towards GRUFIDES. Interviews with its community relations staff insinuated the NGO was controlled by militant leftists, motivated by an anti-capitalist agenda. Interviews #1 and #2, 11/09/2014; interview 19/09/2014.

Melendez 2009: 95-96; Defensoría del Pueblo 2007: 48-49). Three days later, 2000 protestors marched to the Carachugo encampment demanding justice for Llanos' killing, blocking vehicles from entering the site. On August 25th, following a three-day suspension of operations, the company agreed to negotiate in order to mitigate further losses (Kamphuis, 2011: 88). Eventually the crisis was resolved after parties commissioned an independent hydrological study, and an agreement was reached on preferential local hiring (De Echave & Diez 2013: 85; CooperAcción 2012: 11).

A prominent outcome of the Combayo conflict that continues to affect MYSA's legitimacy pertained to the usage of its private security contractor, Forza.⁹⁸ After Quilish, Forza initiated a systematic campaign of digital surveillance and intimidation of activists, locals, journalists, and politicians deemed hostile to company interests. Codenamed the "Devil Operation", its activities focused extensively on GRUFIDES, whose staff were persistently harassed and subjected to death threats.⁹⁹ Following public allegations of abuse, central authorities conducted an investigation into the security contractor and discovered it to be in possession of military-grade weaponry and ammunition, stored in a warehouse located on MYSA property.¹⁰⁰

Additionally, MYSA and its security contractor were alleged to have conspired to murder activists. For example, in December 2006 Edmundo Becerra Cotrina, a peasant activist who vocally opposed Combayo, was killed while farming a plot of land. MYSA

⁹⁸ Created in 1991 by former Peruvian Armed Forces counterterrorism specialists, Forza has provided corporate security services for various multinational mining companies in Peru. In 2007, it was acquired by the multinational security company, Securitas, which continues to provide corporate security services for MYSA (Kamphuis, 2011: 85).

⁹⁹ See the documentary film, "The Devil Operation" by Stephanie Boyd.

¹⁰⁰ Angel Paez and Wilson Castro. "'Forza' no ha sido exculpada." *La Republica*. Friday December 8th, 2006.

insists Bacerra was the victim of a land dispute, however, locals claim he was killed by hit-men hired by the company. Following his death, former leader of Cajamarca's Federation of Peasant Patrols Gerardo Lopez stated that "Edmundo Becerra isn't the first to have violently died lately over a dispute involving Yanaochca, and he won't be the last" adding that he suspected at least six others were victims of targeted assassination.¹⁰¹ While these allegations have never been proven, many Cajamarquinos suspect MYSA of authorizing Forza operatives to conduct assassinations, a perception which has been difficult to alter given the contractor's connection to human rights abuse in other parts of Peru.¹⁰²

While MYSA has since scaled-back the usage of its private security contractor, its relationship with the state's coercive apparatus remains strong. As demonstrated above, the PNP have frequently been called upon to quell social opposition. Since entering the region, MYSA has signed multiple service provision contracts with the PNP, which seek to "strengthen the strategic alliance between the National Police and Minera Yanacocha through concrete undertakings in security, surveillance and protection of equipment and facilities of the company" (see Appendix #5, clause 3.2). The latest iteration of its services contract authorizes broad police action to "prevent, detect and neutralize risks that threaten the personnel, facilities, machinery and equipment of Minera Yanacocha and its contractors, to guarantee the normal development of mining activities and other technical aspects of its activities" (see Appendix #5, clause 3.1). In exchange MYSA pays, houses, feeds, and provides health care services to contracted police (see Appendix #5, clause

¹⁰¹ Cesar Romero. "Una mina de conflictos." *La Republica*. Tuesday December 12th, 2006.

¹⁰² In 2005, Forza staff were accused of illegally detaining and torturing a group of peasants who protested against British-based Monterrico Metal's Rio Blanco project in northern region of Loreto. After being detained for several days, one individual was killed, with two female detainees reporting being victims of sexual assault (Kamphuis, 2012: 544).

4.2.5). This formal alliance is highly indicative of police allegiances during social conflicts, suggesting that PNP contingents deployed by the company are less likely to fulfill their constitutionally designated function of maintaining public order/security, and more likely to protect the interests of private capital.¹⁰³ NGOs insist that the company's police contracts have increased the likelihood that legitimate and democratic protests will be violently repressed (GRUFIDES, 2013: 15).

MYSA's community engagement activities have occurred against a contradictory backdrop of continued reliance on coercion. The heterogeneity of its security repertoire has consequently undermined the ability of dialogue and development to manage crisis periods. As one community leader remarked, "How can they ever construct confidence and dialogue when they've militarized the situation so much?"¹⁰⁴

4.4.1 Conclusion

In this chapter I have argued that MYSA's failure to peacefully manage the 2011/2012 Conga conflict was a function of two factors. First, Cajamarca's political economy of contention presents a challenging baseline security situation for the company. The region exhibits high social conflict risks due to its socio-economic and politico-institutional characteristics. Chronic poverty, ineffective subnational governments, and fractionalized electoral politics have created ripe conditions for protest and violence. With respect to industrial mining, social conflicts that would otherwise remain latent or confined to formal institutional channels (e.g., court cases) can easily escalate into open violence.

¹⁰³ As one community activist aptly commented, "Minera Yanacocha continues to contract the police as if they were mercenaries." Interview 28/09/2014, translated.

¹⁰⁴ Interview 12/09/2014, translated.

Nevertheless, multinational mining companies do exercise agency over the trajectory of conflict outcomes.

Second, MYSA's marginal contribution has been to increase, rather than minimize the potential for social conflicts to escalate into violence. While it engaged stakeholder communities in dialogue and development prior to and during the Conga crisis, its activities were directed primarily at fence-line communities with whom it already stable relationships. However, communities from the project's area of indirect influence perceived the highest risks and thereby drove opposition. However, the company's refusal to comprehensively engage indirect stakeholder groups had the effect of providing political entrepreneurs (e.g., Gregorio Santos) with an army of aggrieved supporters. When tensions exploded following the approval of Conga's reevaluated EIA, MYSA withdrew entirely from community engagement believing opponents were too unwilling to deliberate. While political entrepreneurs contributed to the highly polarized situation, the intense rejection of MYSA was also driven by a deep crisis of legitimacy confronting the company.

Two decades of highly tense and periodically violent interactions have generated immense skepticism in the company's contemporary activities. Despite a recent shift towards dialogue and development as methods of conflict prevention and resolution, MYSA is still quite traditionalist in its approach to security governance. As a result, it has relied prominently on coercion to deter and quell social opposition. The company has utilized an abusive private security force, while cultivating a strategic alliance with the national police, who on multiple occasions have acted repressively in MYSA's interests. Moreover, the company's poor environmental record has generated intense skepticism of its "water first" approach to conflict management.

However, as I demonstrate in the next chapter with the case of Minera Barrick Mischiuilca's open-pit gold mining operation in the region of Ancash, MNCs can reduce conflict and violence risks through efforts to restrict the usage of coercion, while institutionalizing broad and transparent engagement with stakeholders. Intra-firm factors are likely to drive the divergent outcomes observed between these cases, as Barrick has more successfully facilitated alignment between its operational and community relations/CSR sub-units.

Chapter 5: A Benign Approach to Gold Mining? Minera Barrick Misquichilca and Proactive Engagement

“[A]lthough Barrick Gold’s and MBM’s social image are not free from trouble, the international and domestic stains on the company’s reputation are considered nowhere near as dark as...most other large scale mining companies in Peru, and its disposition to sit down to negotiate is recognized.”

-Perla, 2012

“The good thing about Barrick is that it has always been willing to talk when there has been a problem.”¹⁰⁵

-CARE Peru, Huaraz representative

“The company has been working with communities both within and outside the area of direct influence because it doesn’t want conflicts to escalate to a higher level.”¹⁰⁶

-Office of National Dialogue and Sustainability, Huaraz representative

Situated in western Peru, the region of Ancash stretches inland from the Pacific coast to the rugged Andean highlands. With the exception of the residents of the capital city, Huaraz, the region’s highland population is comprised largely of rural, peasant and indigenous communities who engage in subsistence activities along the mountainous terrain of the Callejón de Huaylas.¹⁰⁷ Ancash’s central highlands are rich in mineral resources, and since the decentralization of the canon minero it has ranked among the top recipients of mining tax transfers in the country. Despite the fiscal wealth its vast subsoil endowments¹⁰⁸ have generated over the course of the recent commodity super-cycle, one-third of its population continues to live below the poverty line. What’s more, Ancash experiences an alarming level of social conflict, ranking highest among the country’s

¹⁰⁵ Interview 30/10/2014, translated.

¹⁰⁶ Interview 10/11/2014, translated.

¹⁰⁷ The “Alley of Huaylas” consists of two longitudinal valleys forged by the eastern Cordillera Blanca (white mountain range) and the western Cordillera Negra (black mountain range).

¹⁰⁸ Approximately 58% of zinc, 26% of lead, 22% of silver, 13% of copper, and 3% of the country’s proven gold reserves lay beneath its soils (MINEM, 2013: 29-30),

mineral producing regions. Despite its challenging political economy of contention, the region's largest gold mining operation has managed to stave off major outbreaks of violence during episodes of social conflict.

Located 10km northwest of Huaraz, the Pierina gold mine is situated along the chronically water-stressed Cordillera Negra at 4100 masl. The mine is a wholly owned asset of Canadian-based Barrick Gold Corporation and operated by its Peruvian subsidiary, Minera Barrick Misquichilca (MBM). Exploitation activities began in 1998 and are scheduled to proceed until the end of 2016. Pierina is a conventional open-pit truck-and-loader operation that utilizes cyanide heap-leaching to extract gold from crushed ore. Covering 2500 ha of land it is Peru's second largest gold mine next to Yanacocha, and like its counterpart in Cajamarca was among the first mega-mining projects to be initiated following the liberalization of the country's mining sector. Between 1998-2008 it produced 7.1 million ounces of gold, and though MBM initiated closing procedures in 2013, it produced 54 000 ounces in 2015 (Himley, 2010; Barrick, n.d.).

While this operation has been a source of social conflict, their frequency, intensity, and scale have been relatively subdued compared to the previous case. Unlike MYSA's operations in Cajamarca, social conflicts involving the Pierina gold mine have not escalated into violent region-wide insurrection against the company, multiple fatalities, nor widespread state repression – an outcome that is ever more curious given the operation's proximity to the regional capital and the highly fractionalized nature of Ancash's electoral politics. As I demonstrate in this chapter, violent escalations have been rare occurrences over Pierina's lifespan, confined primarily to localized disputes with select fence-line communities. Unlike MYSA, the company has managed to construct a higher degree of

Figure 5.1: Location of Pierina mine within Ancash region



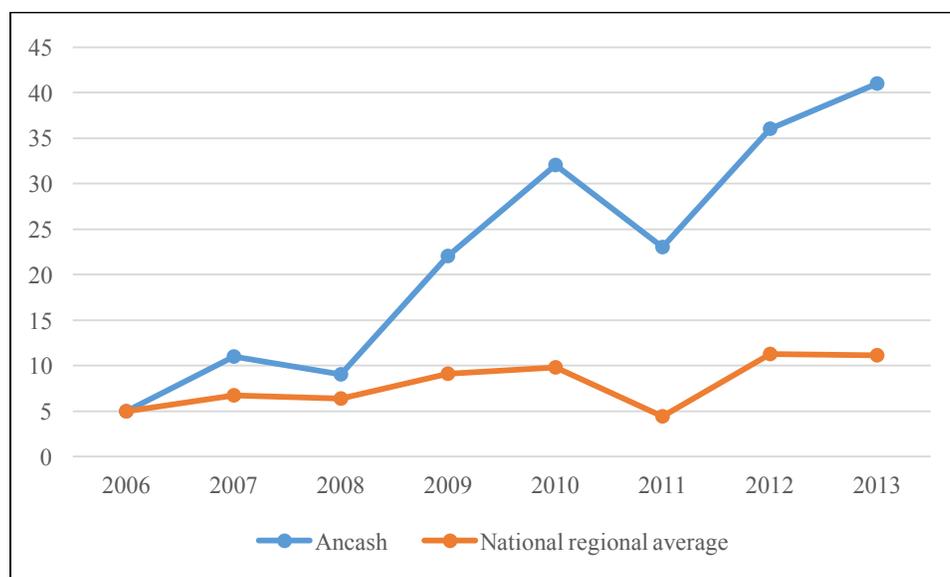
governing legitimacy, making it difficult for regional incumbents or candidates to capitalize on hardline anti-Barrick and anti-mining narratives. The company has implemented more effective communication channels with fence-line communities that have increased the frequency of constructive community-firm interactions over time. Additionally, it has been more responsive than MYSA to multi-stakeholder dialogue during crisis periods. Rather than withdrawing from deliberative fora and deferring to the state to resolve conflicts, MBM has sought to maintain a visible presence in dialogue tables. Second, its development programs have been implemented both within and outside the operation's area of direct influence in an effort to mitigate the distributional asymmetries that make industrial mining operations more prone to conflict. Finally, while the company maintains an alliance with state security forces, coercion has not been a mainstay of the company's security repertoire, thereby bolstering the legitimacy of its community engagement activities. As I argue, MBM's security governing efficacy vis-à-vis MYSA

can be traced to the relatively empowered position its community relations/CSR sub-unit maintains within the company's organizational structure.

5.1.1 Understanding Ancash's political economy of contention

Ancash has Peru's highest social conflict risk rating among Peru's mineral rich regions (Bland & Chirinos, 2014), ranking well above the regional average across all social conflict types identified by the Ombudsman (see Figure 5.2). Chronic poverty, a sizable rural population confronting livelihood stress, ineffective local administrators, and fragmented electoral politics have generated ripe socio-economic and politico-institutional conditions for protest and violence. *Ceteris paribus*, the region's political economy of contention predisposes a challenging baseline security situation for multinational mining companies to operate within.

Figure 5.2: Social conflict trends in Ancash region



Source: Defensoría del Pueblo, 2006-2013

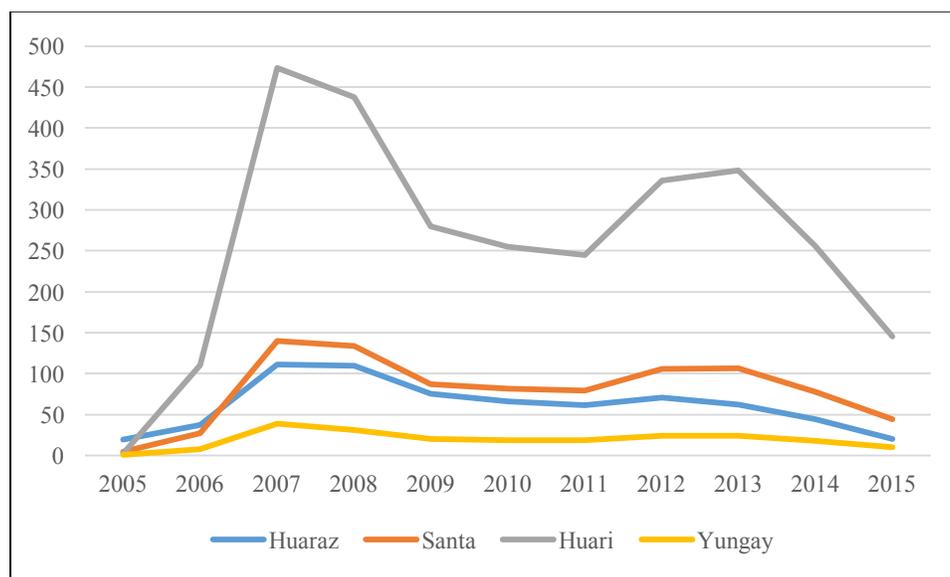
With a total surface area of 35 914 km², Ancash is home to 1.15 million people, approximately 32% of whom live below the official poverty line, with 8% in conditions of

“extreme poverty” (INEI, n.d.). Much of the region’s indigent population is comprised of rurally-based peasant and indigenous communities who reside in mountainous areas that lack access to basic state services and infrastructure. What’s more, these subsistence-based communities are highly vulnerable to the impacts of industrial mining activities. As is the case in Cajamarca, mining projects in the region have generally utilized open-pit technologies, dramatically transforming landscapes, generating displacement, and creating geographically dispersed and long-term environmental impacts on natural resource-dependent communities. Since 2002, the region has witnessed a sustained expansion of the extractive frontier; today 59% of its surface area (approximately 2.1 million ha) is covered by mining concessions (CooperAcción, 2014: 1).

While the regional capital boasts a vibrant tourism industry that caters to outdoor enthusiasts who climb the snow-capped mountains of the Cordillera Blanca, the region’s productive profile is generally oriented towards mineral extraction. Industrial mining accounts for approximately 44% of its annual GDP (BCRP, 2016). Due to its mineral richness, Ancash has become one of the largest recipients of mining tax transfers in the country, amassing approximately \$2.5 billion US since 2005 (SNMPE, 2005-2015). Within the region, the province of Hauri is the largest recipient of the canon minero (\$854 million US), followed by the provinces of Santa (\$271 million US), Huaraz (\$207 million US), and Yungay (\$65 million US) (see Figure 5.3).

Local jurisdictions have also benefitted substantially from the fiscal bonanza of the commodity super-cycle. For example, within the province of Huaraz the districts of Independencia, Huaraz, Jangas, Huanchay, and Cochabamba are the top recipients of

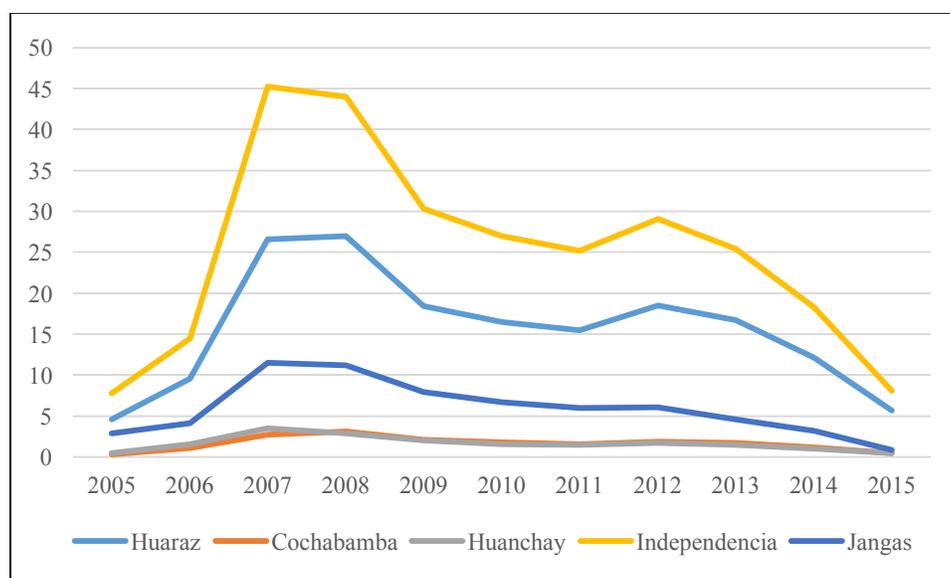
Figure 5.3: Top provincial recipients of canon minero (millions of Peruvian Nuevo soles)



Source: SNMPE, 2005-2013

transfer payments (see Figure 5.4). Between 2005-2015 they amassed approximately \$83 million US, \$52 million US, \$19 million US, \$5.5 million US, and \$3.9 million US respectively. However, despite the influx of fiscal resources that has flown into the coffers

Figure 5.4: Top district recipients of canon minero (millions of Peruvian Nuevo Soles)



Source: SNMPE, 2005-2015

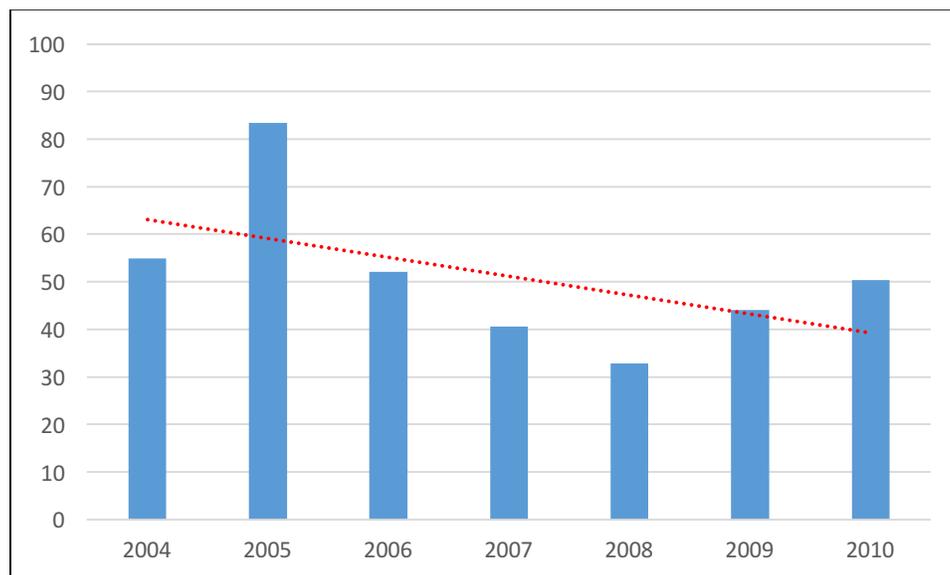
of subnational governments, the region's mineral producing jurisdictions remain marred by poverty. For example, approximately 20% of the population in Huaraz province lives below the poverty line, with these figures at 21% and 28% for districts of Independencia and Jangas (i.e., Pierina's area of direct influence) (INEI, n.d).

Like many of the country's mineral producing areas, bureaucratic ineffectiveness is believed to be responsible for the discrepancy between fiscal inputs and socio-economic outputs, with local administrators contributing directly to the region's political economy of contention. Their inability to address basic needs has increased general levels of societal discontent, and contributed to widely held beliefs that industrial mining activities do not provide demonstrable benefits to locals. Drawing upon Ponce & McClintock's (2014) proxy measure for bureaucratic capacity (e.g., annual percentage of mining tax transfers spent), Figure 5.5¹⁰⁹ suggests that local bureaucracies throughout the region are highly ineffective, spending on average only 51.1% of the transfers they received from the central government (note: this figure is identical to Cajamarca). Moreover, as the trend-line in indicates, their capacity has decreased over time.

By law these revenues must be utilized for poverty reduction and basic needs provision (e.g., potable water, infant and maternal health, education, etc.). However, according to the regional representative for the Office of National Dialogue and Sustainability, local authorities have frequently spent the revenues generated by transfer payments on infrastructure projects with little or no long-term development benefit. For instance, authorities have spent money on legacy projects with high visibility to

¹⁰⁹ I am grateful to Dr. Aldo Ponce and Dr. Cynthia McClintock for providing me with the raw data required to construct this figure through a personal email communication on April 13, 2016.

Figure 5.5: Bureaucratic effectiveness in Ancash



constituents, such as central plazas and sports complexes.¹¹⁰ To compound matters, local bureaucracies experience high turnover rates due to the absence of permanent and professional civil servants. Bureaucratic staff are replaced in accordance with municipal election cycles (e.g., every four years), preventing institutional knowledge and expertise from remaining across administrations.¹¹¹

Finally, the region's electoral politics have also been a salient contributor to Ancash's political economy of contention. The fragmented multiparty environment at the regional, provincial, and district levels has reinforced poverty and underdevelopment as public goods are transformed into selectively dispersed club goods. It has also increased the likelihood that societal grievances will be channeled into non-institutional, and possibly violent, means of interest expression as political actors adopt risky and/or populist measures to distinguish themselves from competitors. Political fragmentation in Ancash

¹¹⁰ Interview, 10/11/2014.

¹¹¹ Interview, MBM Manager of Community Relations, 08/05/2014.

is among the highest in the country. The number of parties/candidates vying for office has steadily increased since subnational elections were first held in 2002. With the exception of 2002, the region's electoral politics have become more fragmented over time (see Table 5.1). While provincial and district level ENP figures are not available, provincial and

Table 5.1: Political fragmentation in Ancash

Election Year	Ancash's ENP Value	Average Regional ENP Value
2002	5.3	5.63
2006	6.37	5.27
2010	6.48	5.43

Source: Arce, 2014

district elections are characterized by similarly high levels of political competition (ONPE, 2014a/b).

In summation, the socio-economic and politico-institutional characteristics of Ancash suggests MBM's Pierina gold mine is embedded within a challenging external security environment. In fact, according to the company's Lima-based Manager of Community Relations, the company's security rating system classifies Pierina as a high-risk operation.¹¹² The region's political economy of contention increases the likelihood that societal grievances will manifest themselves in the form of social conflict, and possibly escalate into violence. However, as I demonstrate below, despite confronting almost identical socio-economic and politico-institutional conditions to MYSA's gold mining operations in Cajamarca, MBM has been *relatively* effective at peacefully managing social conflicts with stakeholder communities. When analyzed from a controlled comparative

¹¹² Interview, 08/05/14.

perspective, the company's marginal effect on security can be understood as positive. Through its community engagement programs, the company has constructed a higher degree of governing legitimacy in Ancash, and hence been more effective at reducing the frequency and intensity of violent social conflict than MYSA.

5.2.1 Community engagement at Pierina

Seventeen hamlets and one small urban center from the districts of Independencia and Jangas comprise Pierina's area of direct influence. The town of Jangas, located immediately south of the company's housing facility, is the origin of the mine's access road, and the remaining pastoral communities dot the steep slopes of the surrounding mountainsides. The districts of Huaraz (Huaraz province) and Anta (Carhuaz province) are classified as the operation's area of indirect influence. Anta is located approximately 8 km north of the operation and houses of the Comandante FAP Germán Arias Graziani Airport, which MBM utilizes to transport gold bars that have been delivered by armored car from Pierina's processing facilities.

MBM's community engagement activities consist of a series of poverty reduction, development, and dialogue initiatives with stakeholder groups. While activities were initially confined to the project's area of direct influence, they have since expanded to include indirect stakeholders, namely the provincial and regional governments in Huaraz. Broadly speaking, the company's development activities are intended to reduce poverty by enabling fence-line communities to pursue income-generating activities outside of the mining economy. MBM focuses investments on education, health care, nutrition,

infrastructure, agriculture, and animal husbandry.¹¹³ As Himely (2010: 3280) notes, Pierina's socio-economic development activities "take as given" the fact that modern industrial mining is a capital and high-skilled labour intensive activity that offers minimal employment opportunities to impoverished locals along the fence-line, much less incorporate them into downstream and lateral sectors. While Pierina does employ some locals (see below), the company's decision to structure its sustainable development activities outside of the mining economy represents a development strategy with potential conflict mitigating effects, as it tempers expectations of direct material gain. As MBM's Manager of Community Relations noted,

One of the problems that mining operations persistently have is that they generate high expectations among the local population that they will receive employment at the mine. But, often times locals are highly impoverished and don't have the level of technical training required.¹¹⁴

Foreign firms have often exaggerated the positive direct employment benefits of their operations, elevating expectations that, when unfulfilled within the context of high poverty, can trigger conflict outbreaks. By supporting alternative income-generating activities, MBM's socio-economic development activities reduce the likelihood direct employment will generate grievances that contribute to, or spark larger social conflicts.¹¹⁵

¹¹³ According to a third-party audit, between 1992 and 2007 Pierina's development projects led to a 25% reduction in poverty in the district of Jangas and a 26% reduction in the district of Independencia, with illiteracy in both districts declining by 12% (Barrick, 2011: 28-29).

¹¹⁴ Interview, 08/05/2014, translated.

¹¹⁵ It is important to acknowledge, however, an inherent contradiction in this approach. While MBM's activities are geared towards enhancing the productivity of natural resource-based livelihoods in fence-line communities, Pierina's long-term environmental impacts on land and water may undermine the efficacy of their projects, sparking socio-environmental, rather than labour conflicts, in the long-term.

Second, MBM's community engagement activities are built on the concepts of "participatory" and "partnership" development. In order to mitigate allegations that the company's CSR activities are implemented in a paternalistic manner (as was common in the 1990s, and particularly in the case of MYSA's Yanacocha operation) the company has sought local input in their planning and execution, while involving credible third-parties whose interests and expertise align with those of local stakeholders. For example, MBM is involved in participatory budgeting initiatives with authorities the districts of Jangas and Independencia,¹¹⁶ and has partnered with state-based entities and international NGOs in the planning and execution of projects, rather than doing so in a direct, bilateral manner (Himely, 2010: 3279). Since the outset of operations, MBM has worked in conjunction with Peru's national development agency, Fondo de Cooperación por el Desarrollo Social (Cooperation Fund for Social Development) and NGOs such as USAID and CARE Peru. Third-party involvement in the planning and execution of development projects has potential conflict mitigating effects as it acts as a check-and-balance on arbitrary corporate behaviour, which can temper (though not entirely remove) perceptions that MBM will utilize projects to coopt support or fracture the collective power of affected communities. More importantly, it institutionalizes alliances between stakeholder communities and NGOs, which reduce power asymmetries that typically pervade direct bilateral community-firm interactions.

Finally, MBM's development activities have attempted to minimize the material distributional asymmetries that can emerge both within and between its areas of influence. While the company's engagement plan prioritizes alternative income generating activities,

¹¹⁶ Interview, Pierina community relations representative 05/11/2014.

it does provide locals along the fence-line with limited direct employment. At any given time MBM employs approximately 450 people from the 17 hamlets surrounding Pierina to work on “complementary activities” in areas of construction and reforestation (Barrick, n.d.; Himley, 2010). Individuals are hired on a 3-month rotating basis; the rotational nature of its work program helps to more equitably distribute the material benefits of employment (i.e., income) across a larger population of directly affected stakeholders. Not only does this minimize potential concerns that some individuals, families, and communities benefit more than others, it reduces perceptions that direct employment is being used as a means to coopt certain groups, or act as part of a divide-and-rule strategy designed to fracture the collective power of stakeholders.

Additionally, in order to minimize distributional asymmetries between the operation’s areas of direct and indirect influence, MBM allocates 50% of its discretionary social investments to communities along the fence-line, while reserving the other half for communities throughout the region. By contrast, MYSA concentrates 88% of its discretionary social investments within fence-line communities (Perla, 2012: 129). This wider geographic dispersal of social investments reduces likelihood that conflicts will have regional contagion effects, as it shrinks distribution of risks and benefits indirect stakeholders confront, while contributing to the perception that a greater cross-section of the populace benefits from the mine’s activities. As the Office of National Dialogue and Sustainability’s Huaraz representative observed, “The company has been working with communities both within and outside the area of direct influence for some time now because it doesn’t want conflicts to escalate to a higher level.”¹¹⁷

¹¹⁷ Interview, 10/11/2014, translated.

In addition to development, the company has more successfully institutionalized regular and broad community-firm deliberation. At a corporate level, Barrick has long viewed dialogue as necessary for minimizing the socio-political risks that accompany industrial mining activities. For example, the company's first CSR report states:

open dialogue with community residents, local and regional governments, indigenous peoples and other key stakeholders...allows the Company to respond to concerns and develop a long-term perspective on the potential benefits of its activities...Ongoing communications with community leaders helps us to monitor the effectiveness of our efforts and identify new social issues throughout the life of each operation (Barrick, 2002: 27).

Since operations began at Pierina, MBM officials have treated community-firm deliberation as a “daily and multifaceted practice” to be implemented through a range of bilateral and multilateral mechanisms. According to the company's Lima-based Manager of Community Relations,

We try to constantly interact with all levels of government within Ancash; community representatives, district authorities, and provincial and regional governors. We even try to interact with *rondas campesinas* because they also have their own district, provincial and regional networks.¹¹⁸

By contrast, MYSA has preferred to engage exclusively with central authorities in Lima, rather than with local and regional authorities in Cajamarca when conflicts emerge (Triscritti, 2013: 446).

At the site level, MBM has implemented a grievance management mechanism to preempt micro-conflicts with fence-line communities from aggregating into larger manifestations of social resistance. According to the company, it “serve[s] as an effective early warning system that can help resolve manageable issues before they snowball into costly problems or spark social unrest” (Barrick, 2013: 37). In the mid-2000s Barrick

¹¹⁸ Interview, 08/05/2014, translated.

initiated a company-wide formalization of procedures in accordance with the UN Guiding Principles on Security and Human Rights. While the process was finalized in 2008, Pierina's grievance management mechanism built upon preexisting protocols in place since the mine began operating.¹¹⁹ Community relations personnel enter written reports of individual complaints into the company's online repository, whereupon they are required to resolve the issue within 30 days prior to an alert being released to the Lima head office. Weekly update meetings on the status of each grievance are conducted with Pierina's operations manager, with community relations staff advising departments/actors that were the subject of the grievance (e.g., drilling, construction, contractors, etc.) on how to respond and prevent future complaints.¹²⁰ According to MBM's Community Relations Manager this has helped to create confidence in the company's responsiveness local to concerns describing it as, "one of the most powerful social conflict management tools we've had, as it allows anyone to lodge any kind of grievance, regardless if it has to do with the company directly or one of our contractors."¹²¹

One notable feature of the company's system is that it formally permits third-party intervention, empowering outside mediators to refer cases to the Peruvian judicial system in the event community members are unsatisfied with the initial resolution (Triscritti, 2014: 444). MBM's grievance management system has thereby institutionalized a credible signal to peaceful conflict resolution. This has had the effect of enhancing the company's legitimacy and social image surrounding social conflict management. As one of Barrick's corporate Toronto-based executives explained:

¹¹⁹ Interview, MBM Community Relations employee #1 05/11/2014.

¹²⁰ Interview, MBM Manager of Community Relations 08/05/2014.

¹²¹ Interview, 08/05/2014, translated.

Our grievance mechanism is fundamental to conflict management because it's an indicator that we'll be listening to communities and will *have to* respond to their concerns. It's a signal to the people that the company will act to resolve an issue however big or small, because things go wrong all the time. It helps build trust, and a lot of what we're trying to do with conflict management is trying to build trust, which is the exact opposite of conflict.¹²²

Finally, the Barrick's management structure has factored into its relative efficacy as a security governing agent, as it has created conditions for its community relations/CSR staff to influence not only the daily behaviour of company officials and staff, but also the company as a whole during conflict periods. At the corporate level, Barrick has adopted an "integrated management approach" that seeks to promote knowledge transfer across the corporation's distinct management units, while bringing distinct entities under the purview of the chief sustainability officer. It is important to note that this stands in contrast MYSA's highly compartmentalized management structure, which has often resulted in community relations/CSR and operations sides being at loggerheads, with the former losing to the latter when strategic conflict management decisions are made (Tanaka & Melendez, 2009: 79).

As a Toronto-based executive explained,

We have several units at the company, such as environment, community relations, operations, health and safety, security, etc., and while they perform separate functions, they all report to the sustainability officer. We want to have a more integrated approach, and while this is new at the corporate level, it's been this way on the ground at our in-country offices for some time now. The model we have now is to move away from sub-units that operate as silos, and towards more collaboration between them, because there are common issues that cut across and must be managed from that basis. It just makes more sense from a functional perspective.¹²³

At the site level, MBM has further facilitated alignment between operations and community relations/CSR sub-units through both formal and informal means. For

¹²² Interview, 13/04/2016.

¹²³ Ibid.

example, community relations/CSR staff participate in Pierina's daily operations meetings, reporting to technical staff (e.g., geologists, engineers, construction, etc.) on the salient social grievances and salient security risks of the day.¹²⁴ Additionally, MBM has created an internal "social committee" at both the operational and corporate levels. Pierina's social committee convenes on a weekly basis and consists of the mine's operations manager, community relations staff, and MBM's Lima-based Manager of Community Relations. Site-level community relations staff believe this internal information sharing mechanism has enabled them to influence the strategic direction of the operation, as it ensures that the highest levels of the operations department at Pierina are better informed about the daily impacts the operation is having on community-firm relations.¹²⁵

While Pierina has been a source of social conflict since operations began, MBM's approach to community engagement has enabled the company to manage conflict with stakeholders relatively peacefully. The iterative interactions communities have had with the company, though conflict-laden, have not fundamentally undermined the legitimacy of the company's conflict management activities.

5.3.1 A chronology of social conflict at Pierina

As noted above, the mine began operating in 1998 following a series of macroeconomic and mining sector reforms implemented by the Fujimori administration. At the time, a recently implemented tax law¹²⁶ aimed at attracting FDI enabled companies that merged to reevaluate their assets with a double depreciation. Assets could be devalued once under the ownership of the original company, and gain under the newly forged

¹²⁴ Ibid.

¹²⁵ Interview, MBM Community Relations employee #1 and #2, 05/11/2014.

¹²⁶ Law No. D.S. 120-94-EF (which has since been repealed).

corporate entity. The faster rate of depreciation reduced the value of the company and thereby the level of taxes paid to the central government. For Barrick this was highly advantageous; while the company had operated in Peru since 1994 originally focusing on exploration activities, in 1996 it purchased the Peruvian firm, Acuarios Minera y Exploradora, which owned the rights to the Pierina concession. Consequently, when the two companies merged to form MBM it received a US \$141 million tax break for the 1996 fiscal year. For Ancash, this represented a substantial loss of revenues, amounting to approximately US \$18 million in transfer payments to regional government (Perla, 2012: 193). While MBM was taken to court over the alleged tax evasion in 2002, it eventually won the case (Ibid).

Within this context, MBM witnessed the first outbreak of social conflict directed at Pierina. In March of 2005 Ancash's regional governor, Lombardo Mautino Angeles, led a series of protests demanding the two largest mining operations in the region (Antamina¹²⁷ and Pierina) make more robust commitments to its socio-economic development. While the protest movement was framed as a struggle against the adverse environmental impacts of industrial mining on rural populations, the objective was to force companies to contribute finances for projects in the city of Huaraz. Despite Mautino utilizing the discourse of regional development this conflict was, in effect, an urban-based movement emanating exclusively from the city of Huaraz. The urban bias was reflected, moreover, by the fact that Pierina's fence-line communities did not participate, let alone those from other remote rural parts of the region affected by industrial mining projects (Perla, 2012:

¹²⁷ Located in the province of Hauri, Antamina is one of the largest copper and zinc mines in the world, and is a joint venture between BHP-Billiton (33.75% ownership), Glencore Plc (33.75%), Teck (22.5%), and Mitsubishi (10%).

194). On March 7th, protestors blocked access roads to the city, paralyzing commercial activity and producing a series of confrontations with police in which 20 people were injured.¹²⁸ Immediately following the clashes, Barrick and Antamina agreed to participate in a multilateral dialogue initiative with regional authorities mediated by the Catholic church and overseen by the Ombudsman's regional detachment. The Ombudsman's former Commissioner for Ancash notes that MBM played a constructive role in these negotiations.¹²⁹ Through the dialogue table the company agreed to fund several urban development projects in Huaraz, such as the asphaltting of roads, the construction of maternal health and childcare centers, a roofed market, and a new sports complex (Defensoría del Pueblo, 2006).

Before continuing, it is important to note that this escalation of conflict was not driven by MBM's activities *per se*, but by broader discontent with the fiscal regime governing mineral extraction (i.e., laws that intentionally weakened the state's tax handle). The timing of this conflict escalation was consequential as it occurred immediately following 2004 modifications to the country's mining tax transfer system, which increased the percentage of transfer payments to regional governments (see Chapter 3). Reflecting on this incident, the company's Manager of Community Relations noted,

The distribution of the mining canon prior to 2004 was a bit stingy, and since the modifications were implemented, the mining canon has generated a lot of expectations on behalf of populations not so much from the area of direct influence, but from populations adjacent to it. We always have neighbours outside the area of influence, however large, who want to benefit.¹³⁰

¹²⁸ N.a. "Viente heridos deja movilización en Huaraz contra mineras." *La Republica*. Tuesday March 8th, 2005.

¹²⁹ Interview, 04/11/2014.

¹³⁰ Interview, 08/05/2014, translated.

Thus, Mautino's protest can be understood, in part, as a politically opportune attempt to capture greater share of revenues for his administration at a crucial historical juncture.¹³¹

Since this episode Pierina has not been the subject of a social conflict that has drawn the ire of regional authorities, or escalated into province/region-wide insurrection against the operation.¹³² Rather, subsequent conflicts have been confined to the communities within its area of direct influence. When asked why this has been the case, the central government's National Office of Dialogue and Sustainability Ancash representative stated, "Here there isn't a strong anti-mining position like there is in Cajamarca and there aren't people like Gregorio Santos or Marco Arana who can mobilize the population on this level for political gain."¹³³ This observation is illustrative not because it suggests an absence of political opportunism in Ancash, but because of what it implies about MBM's social status. As noted above, the region's electoral politics are highly fragmented, with no reason to assume *ex ante* that political actors will not engage in non-institutional activities or foment escalations of social conflict to distinguish themselves from competitors. In fact, there are prominent examples of incumbents and candidates utilizing protest and illegal methods to secure office.¹³⁴ However, unlike Cajamarca where political entrepreneurs have been able to capitalize on MYSA's long-standing legitimacy crisis for instrumental gain, it is not

¹³¹ Interview, local journalist 12/11/2014.

¹³² As the former Ombudsman for Ancash noted this has been due, in part, to the fact that the city of Huaraz (home to provincial and regional authorities) does not have an urban economy directly dependent on mineral extraction, despite its proximity to Pierina. Rather, the city is an established tourist enclave whose economic activities are dependent on the eastern Cordillera Blanca, not the western Cordillera Negra (location of the Pierina gold mine). Interview, 04/11/2014.

¹³³ Interview 10/11/2014, translated.

¹³⁴ For example, in 2014 Ancash's regional governor Cesar Alvarez was indicted on murder charges for the assassination of his political rival Ezquiel Nolasco.

politically expedient in Ancash to invoke hardline anti-mining and anti-MBM narratives during social conflicts. MBM is generally regarded as a legitimate actor in the region and a contributor to development. As Perla (2012: 188) notes, "the general perception of MBM is far better than that of most other extractive companies in Peru. They are considered to have very good environmental controls, have extensive social programs and in relative terms are seen as modern and responsible." Its positive reputation stems, in part, from a propensity to engage stakeholders to prevent or manage conflicts. As a representative of CARE Peru's Southern Dialogue Project admitted, "The good thing about Barrick is that it has always been willing to talk when there has been a problem."¹³⁵ As a result, MBM has mitigated the possibility of social conflicts having a contagion or scale-shifting effects (i.e., from local to regional level). Nevertheless, the company has confronted periodic conflict escalations with fence-line communities, but has managed to deescalate situations through active participation in dialogue tables.

In February 2006, representatives from the 17 communities immediately surrounding Pierina notified MBM of a series of emerging grievances regarding its labour and sustainable development practices. Specifically, locals were aggrieved that employees from outside the region had been hired to perform low-skilled labour positions promised to them by MBM officials. Additionally, those employed through MBM's rotating work program were upset over stagnating wages. Since 2003, MBM had paid approximately US \$4.90 per day to menial labourers, however, the rising global price of gold at the time prompted local employees to demand wages that were more incommensurate with the profitability of the operation (Himley, 2013: 407). In addition, the community of

¹³⁵ Interview 30/10/2014, translated.

Marenyioc claimed the mine's activities had disrupted the normal flow and quality of water. As a result, on May 4th, more than 300 protestors blocked Pierina's two access roads in an effort to paralyze operations and force a negotiation on these issues. On May 5th, the conflict escalated after protestors located at the southern access road sequestered seven members of the PNP, robbing them of automatic weapons. The PNP's special operations unit was deployed in response, leading to a clash that killed 2 protestors and injured 19 others (10 protestors and 9 police officers) (Himley 2013: 295; Defensoría del Pueblo, 2006: 6). Immediately following the violence, MBM initiated a multilateral dialogue with fence-line communities, agreeing to a policy of preferential local hiring and to a pay raise for those employed by its rotating work program (Perla 2011: 195). However, no agreement was reached with respect to the mine's water impacts on the community of Marenyioc (this would eventually lead to a conflict escalation 6 years later, see below).

As Franks et al. (2014) observe, social conflict risks are heightened when companies propose new developments (e.g. Conga) or expansions of existing operations (e.g., Cerro Quilish). In 2007, MBM proposed to expand Pierina's exploitation activities into the Condorhuain hill, a mountaintop located immediately south of the project's leach pad. While communities surrounding the concession supported the expansion, viewing it as an opportunity to receive employment and social investments directly from the company, several hamlets located in a nearby valley (that fell outside the project's area of direct influence) viewed the expansion as a threat to water. Objections by valley communities prompted representatives from the Ombudsman, MINEM, and the Local Water Authority to inspect the concession area whereupon it was determined that the waters supplying communities did not originate from Condorhuain hill as was originally

assumed. Moreover, the Condorhuain EIA clearly stated that the deposits were located far away from the headwaters in question (Defensoría del Pueblo, 2007b: 73). Nevertheless, valley communities organized protests in the city of Huaraz on July 11th and 12th demanding “that no exploitation activities take place on Condorhuain hill...and that [Barrick] suspend its construction of [access] roads” (Defensoría del Pueblo, 2007: 74). Given the relatively small scale of the protest movement it was surprising to many when MBM announced on July 19th that it would abandon the project. While the company claimed subsequent studies demonstrated insufficient reserves on Condorhuain hill for the operation to be profitable (Defensoria del Pueblo 2007c: 74), observers suspect the company scrapped the project as a preventive security measure given that Quilish conflict in Cajamarca had erupted only one year earlier with devastating reputational consequences for MYSA (Perla, 2012: 196).¹³⁶ It is important to note that MBM’s response indicates a higher degree of risk aversion compared to MYSA with respect to the financial and reputational costs associated with social conflict during proposed expansions.

Finally, the last outbreak of social conflict occurred in September 2012, and is the only other episode in the operation’s history that has led to the death of a protestor. Since 1998, the community of Marineyoc has complained of a decrease in the quality and quantity of water its members derive from the Llarco and Shulcan springs. As a representative of Peru’s National Water Authority observes, “Since the early years, the project has had impacts on groundwater in nearby Mareniyoc and other communities, and as a result there have been permanent disagreements with the company about what the

¹³⁶ Interview CARE Peru, Huaraz representative, 30/10/204.

solution to the water issue should be.”¹³⁷ For Mareniyoc, like many hamlets on the chronically water stressed Cordillera Negra, seasonal springs and creeks are the only source of fresh water for human consumption and subsistence activities. For communities immediately downstream of Pierina that are unable to build wells and pumps to extract underground water, MBM exercises immense control over this life and livelihood sustaining resource (Perla, 2012: 227-234). On March 29th, protestors blocked access roads to Pierina for several days demanding MBM respond to the community’s grievances that had lingered since 2005. While the PNP was deployed to monitor protest activities, their presence at the roadblock area did not generate any confrontations. On April 3, representatives from Marineyoc and MBM initiated a bi-lateral dialogue to negotiate a peaceful resolution to the situation (Defensoría del Pueblo, 2014). Barrick offered to supply Marineyoc with water from a subterranean well located on Pierina’s property and proposed to construct a water purification plant to ensure water would be fit for human consumption.¹³⁸ However, this proposal was struck down when the National Water Authority intervened, arguing that the company did not have the legal authority to unilaterally make this decision.¹³⁹

As an alternative MBM hired a local contractor to supply Mareniyoc using cisterns purchased by the company, and trucking in ten to sixteen thousand gallons of water per day (Barrick, 2013: 25). However, on September 11th, 2012 the National Superintendent for Services and Sanitation discovered the contractor’s treatment plant did not meet

¹³⁷ Interview, 11/11/2014, translated.

¹³⁸ N.a. “Deadly clash at Peru protest over Barrick Gold Mine.” *BBC News*. Thursday September 20th, 2012.

¹³⁹ Interview, National Water Authority Huaraz Representative, 11/11/2014.

national standards and suspended its operation. As a result, Marineyoc went 8 days without water being delivered to its cisterns. On September 19th, approximately 150 people marched to the entrance of Pierina demanding the company find a sustainable solution. However, when protestors arrived at the gate tensions quickly escalated, resulting a confrontation with police installed at the mine. As a result, 9 protestors were injured by teargas, and one protestor was killed after being shot by a police officer.¹⁴⁰

Following this outbreak, MBM participated in a multilateral dialogue process with the entire district of Jangas, the Ombudsman's office, and the newly established Office of National Dialogue and Sustainability. Through the dialogue process the company sought to find a solution to water supply problems communities surrounding the mine confront, the company has transitioned to the use of brackish sources of water (i.e. water with higher salinity) as opposed to fresh water. In addition, through the dialogue process the company has agreed to finance feasibility studies to determine if other fresh water sources can be located along the Cordillera Negra which can be used to supply the community of Mareniyoc (Barrick, 2013: 25).

5.4.1 Conclusion

While MBM's Pierina gold mine has not escaped social conflict and isolated episodes of violence, its efficacy as a security governing agent has diverged from that of its counterpart in Cajamarca. Despite operating in a region characterized by similar security risks, the frequency, intensity, and scale of conflicts at Pierina have been demonstrably subdued compared to MYSA's Conga and Yanacocha operations. Unlike MYSA, MBM has constructed a higher degree of governing legitimacy through its

¹⁴⁰ Liliana Rojas. "Un muerto y nueve heridos deja enfrentamiento en centro minero Pierina." *La Republica*. Friday September 21st, 2012.

community engagement programs. Its development projects have been designed to disperse material benefits to a wider cross-section of stakeholders both within and outside Pierina's area of direct influence. What's more, the company's social investments have helped to mitigate conflict risks by reducing asymmetries in the distribution of benefits, a salient permissive condition in social conflict.

Additionally, MBM has credibly signaled to stakeholder communities that it prioritizes deliberative methods of conflict resolution. When crises have arisen, the company has willingly participated in multilateral dialogue initiatives with the involvement of third party observers and the state. Moreover, through its grievance management mechanism the company has not only been able to more effectively address day-to-day disputes, thereby enhancing confidence among stakeholder groups that the company is responsive to its concerns, but also reduced the likelihood that unresolved grievances will aggregate over time into larger manifestations of resistance. MBM's widely recognized disposition to negotiate peaceful resolutions to crises has been further enhanced by its limited use of coercion. Unlike MYSA, MBM's private security contractors have not been accused of committing human rights abuses against locals, while police forces have rarely engaged in preemptive acts of violence against protestors.

The company's relative efficacy as a security governor can be traced to the position of its community relations/CSR sub-units. At both the corporate and operational levels, Barrick has sought to facilitate alignment between the company's distinct functional units, thereby increasing the likelihood that corporate behaviour vis-à-vis civil society during crisis periods will be influenced by the understandings and recommendations of its community relations and CSR practitioners.

Chapter 6: BHP-Billiton, GlencoreXstrata, and the Ebb and Flow of the Tintaya Conflict

*“The presence of two of the world’s most important mining groups have been accompanied by significant changes in the evolution of the conflict”
-De Echave, 2009.*

*“Despite the disagreements [with BHP Billiton], the outbreaks of violence were contained thanks to the space that was created for dialogue.”
- Guevera & Sosa, 2012*

*“After [2006] the company redefined its strategy, it adopted a more aggressive policy of prevention and control.”
-Caceres & Rojas, 2013*

Nestled atop the highland foothills of the Cordillera Vilcanota, the province of Espinar is located in the southernmost portion of Cusco region. Its rugged plateaus are home to approximately 69,000 people, the majority of whom are indigenous and peasant communities that depend on subsistence agriculture and pastoral activities. While the province is among the most impoverished in the region, Espinar is rich in mineral resources and has hosted one of Peru’s longest-running industrial mining operations – the Tintaya gold and copper mine. Exploitation activities at Tintaya began in 1985 under the tenure of the Peruvian state, subsequently passing through successive waves of foreign ownership.

Protracted social conflict has been a salient feature of community-firm relations at Tintaya. However, as I demonstrate in this chapter, the intensity and scale of conflict escalations have fluctuated along with the changes in mine ownership. Holding constant the region’s political economy of contention, I exploit the leverage afforded by temporal variation in mine ownership to trace the marginal effect of different firm approaches to CSG. I compare the activities of two of Tintaya’s multinational owners – BHP-Billiton (BHPB) and GlencoreXstrata (GX) – noting distinct commitments to community engagement. As this chapter further illustrates, community engagement strategies

designed to incorporate a broad cross-section of stakeholders can facilitate more effective security governance by minimizing distributional asymmetries. However, it also demonstrates that firms can deconstruct the governing legitimacy established by their predecessors' dialogue and development activities, and with it, increase the risks of conflict escalation and violence.

Figure 6.1: Location of Tintaya operation within Cusco region



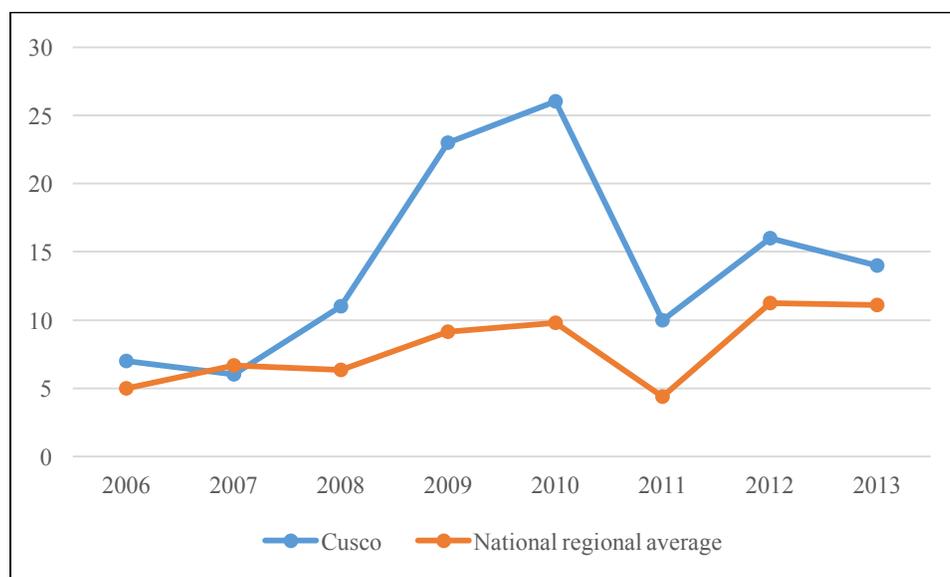
In 2012, Tintaya was the subject of a violent provincial uprising that resulted in multiple deaths and hundreds of injured. This escalation of conflict was the culmination of mounting tension between stakeholders throughout the province and GX since it took over operations from BHPB in 2006. While conflicts existed under BHPB's tenure, they failed reach an intensity of that in 2012. By participating in multi-stakeholder dialogue and development activities with both areas of direct and indirect influence, BHPB managed to engage the broadest possible cross-section of stakeholders in conflict management. By

contrast, GX has circumscribed the scope of community engagement, while being accused of coopting communities with its social investments, and relying more heavily on a coercive alliance with state security forces.

6.1.1 Understanding Cusco's and Espinar's political economy of contention

Cusco has one of Peru's highest social conflict risk ratings (Bland & Chirinos, 2014), ranking above the regional average across all social conflict types identified by the Ombudsman (see Figure 6.2). A large and impoverished rural population, ineffective subnational authorities, and fragmented politics have generated ripe socio-economic and politico-institutional conditions for protest and violence. *Ceteris paribus*, the region's political economy of contention poses a challenging baseline security situation for multinational mining companies to operate within.

Figure 6.2: Social conflict trends in Cusco region



Source: Defensoría del Pueblo, 2006-2013

With a total surface area of 71 986 km², Cusco is home to more than 1.3 million residents, approximately 50% of whom live below the official poverty line, with 20% in

conditions of “extreme poverty”. What’s more, approximately 45% of the region’s population is classified as “rural”, relying on subsistence activities for livelihood production (INEI, n.d.). These aggregate figures, however, conceal heterogeneity between the region’s core and peripheral provinces. For instance, when Cusco province is removed as an outlier, poverty and extreme poverty climb to 67% and 34% respectively, with the percentage of rural citizens increasing to 63% (INEI, n.d.).

As the region’s administrative and commercial heart, Cusco province’s socio-economic and politico-institutional characteristics are distinct from that of the peripheral provinces where industrial mining activities are concentrated. Not only does it boast the lowest poverty level (approximately 25%) and have the highest percentage of urban residents (approximately 95%), its economy is structured primarily around tourism and hospitality (INEI, n.d.). The historic capital city acts as a hub for international visitors to explore the region’s archeological attractions (e.g., Machu Picchu). As the country’s premier tourist destination, moreover, the province has generally higher levels of investment in basic infrastructure and public goods, while enjoying the relative stability afforded by a strong coercive state presence.

Regional electoral politics are also more tempered compared to the previous cases examined, suggesting it is less likely that localized social conflicts will have scale-shifting effects or become part of populist regional political agendas. Party competition is not only less intense than Cajamarca (see Chapter 4) and Ancash (see Chapter 5), but also less so than the province of Espinar. Cusco’s ENP figures indicate a modest decline in the level of political fragmentation since regional elections were first held, and with the exception of 2002, have been below the country’s regional average (see Table 6.1). All other things

equal, social conflicts in the region's peripheral mining provinces are unlikely to become a politicized feature of regional elections as they did in Cajamarca, which could result in a higher conflict risk and intensity.

Table 6.1: Political fragmentation in Cusco

Election Year	Cusco's ENP Value	Average Regional ENP Value
2002	7.48	5.63
2006	4.57	5.27
2010	5.0	5.43

Source: Arce, 2014

Outside the regional core, however, the peripheral provinces where industrial mining projects are located exhibit various socio-economic and politico-institutional features that predispose social conflict and violence, such as ineffective and corrupt subnational bureaucracies and authorities, intense and unrestrained electoral competition, and mounting stress on rural livelihoods as a result of the expansion of the extractive frontier. When assessed from these metrics, Espinar province can be understood as having a political economy of contention comparable to that of the previous cases.

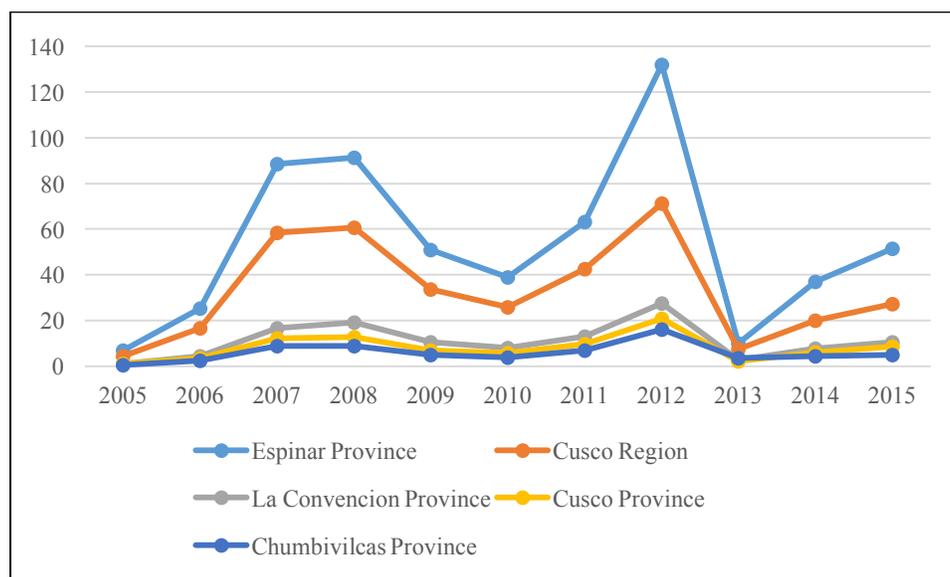
Since the 1980s, Espinar's productive profile has transitioned from one dominated by small-scale agriculture and pastoralism, to one structured around industrial mining. While the growth of the sector has generated enormous revenues for the province, socio-economic conditions for much of the population remain precarious. As an employee for Cusco region's Ombudsman's office lamented,

Today, there is still a gigantic juxtaposition between wealth and underdevelopment in the same place...With all the money in the area, you still have people who have

been living in poverty as they have for many decades. The difference between extreme development and underdevelopment in Espinar is brutal.¹⁴¹

As the oldest mineral producing jurisdiction, Espinar has received the lion's share of the region's canon minero tax transfers. Between 2005 and 2015, the provincial government received approximately \$173 million US, followed by the regional government of Cusco (\$112 million US), and the provinces of La Convención (\$37 million US) and Chumbivilcas (\$20 million US) (see Figure 6.3). Of the province's 8 municipalities,¹⁴² the districts of Espinar, Coporaque, and Pallpata are the largest recipients, having received approximately \$82 million US, \$36 million US, and \$12 million US respectively (see Figure 6.4). Despite the influx of revenues into provincial and district coffers, poverty

Figure 6.3: Top provincial recipients of canon minero (millions of Peruvian Nuevo Soles)

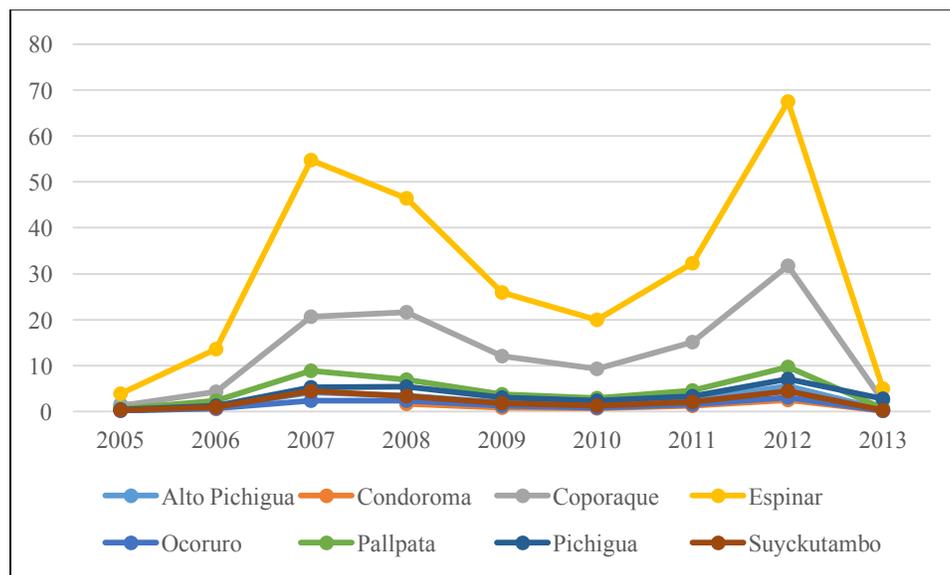


Source: SNMPE, 2005-2015

¹⁴¹ Interview 16/06/2014, translated.

¹⁴² Alto Pichuga, Condoroma, Corporaque, Espinar, Ocoruro, Pallpata, Pichuga, and Suyckutambo.

Figure 6.4: Top district recipients of canon minero (millions of Peruvian Nuevo soles)



Source: INEI, n.d.

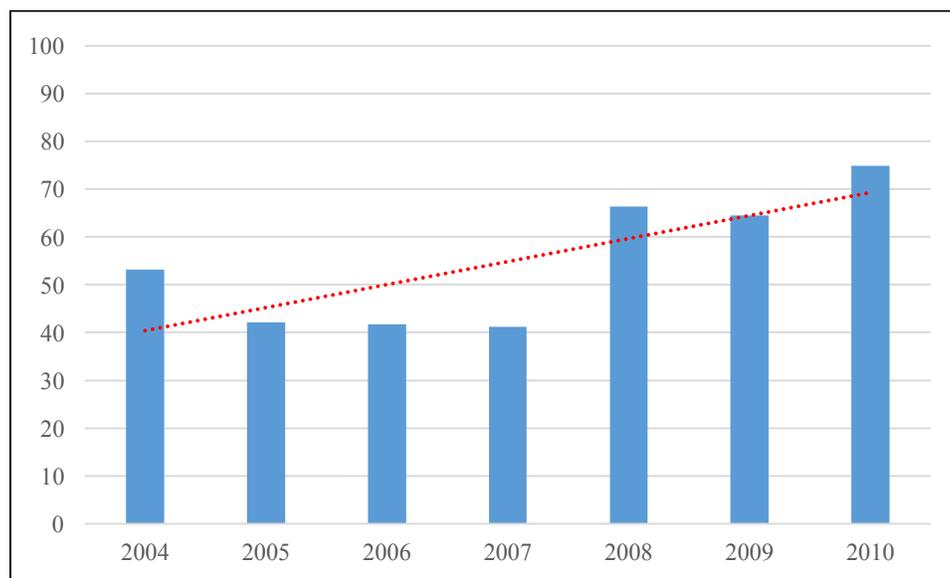
continues to plague Espinar’s the population, as approximately 64% of residents live below the official poverty line, with 33% in conditions of “extreme poverty” (INEI, n.d.).

Like many of the country’s mineral producing areas this so-called “paradox of plenty” has been, in part, a function of the ineffectiveness of the region’s subnational governments in the management resource rents. At the local level, Cusco’s municipal bureaucracies have frequently been unable to address the basic needs of the populations under their jurisdiction. Not only has their deficiencies increased general levels of societal discontent, contributing directly to its political economy of contention, but also to widely held beliefs that industrial mining activities do not provide demonstrable benefits to locals.¹⁴³ Drawing upon Ponce & McClintock’s (2014) proxy measure for bureaucratic

¹⁴³ For instance, a local journalist who has extensively covered municipal politics stated that “in general there is a lot of tension between locals and provincial and municipal representatives because they haven’t invested public revenues well.” Interview 05/06/2014, translated from Spanish.

capacity, in Figure 6.5¹⁴⁴ we see that local bureaucracies throughout Cusco region are highly ineffective, spending on average only 54.8% of the transfers they received from the central government. While the trend over time appears to indicate an

Figure 6.5: Bureaucratic effectiveness in Cusco



increase in bureaucratic capacity, in Espinar evidence suggests institutional capacity may be lower than the regional average, as a recent investigation into the province's spending discovered that less than 50% of its annual budget had been spent on development projects.¹⁴⁵ As the Ombudsman for Cusco region explained,

Espinar continues to be a place with very poor education and health care services...The state hasn't fulfilled its [development] role with all the money it's received from mineral extraction. It hasn't reinvested revenues in ways that improve the living conditions of the people. We're talking about the district governments and the regional government [in Cusco], but fundamentally the provincial government...Part of the problem stems from the failures of the decentralization process which began in 2002, and the inefficiencies that have accompanied the centralized governing logic that dominates this country...As a result, remote parts of

¹⁴⁴ I am grateful to Dr. Aldo Ponce and Dr. Cynthia McClintock for providing me with the raw data required to construct this figure through a personal email communication on April 13, 2016.

¹⁴⁵ N.a. "Municipalidad de Espinar será investigada por la Controlaría sobre uso indebido de bienes y recursos." *La Republica*. Tuesday May 29th, 2012.

the country like Espinar continue to live in conditions of poverty as they have for many years. Is there corruption behind this? Yes, absolutely, but I think the principle cause is inefficiency in the management of public resources. A municipality can receive millions [of Soles] but not have the technical expertise to develop, let alone execute projects. Or worse, authorities spend money on superfluous projects like a bull fighting ring, or a soccer stadium like the one you see in Yauri. That soccer pitch is more than 4000 meters above sea level, it makes absolutely no sense!¹⁴⁶

Additionally, high levels of electoral competition at the provincial level have prevented communities from benefitting from the region's resource boom, while also contributing to social conflict risk. Elected representatives are often accused of utilizing fiscal resources to finance political patronage, directing investments towards select constituents rather than investing in public goods and infrastructure projects which could promote sustainable development. While provincial level ENP figures are not available for Espinar province, evidence from the country's electoral commission indicates very high levels of party competition and low winning vote shares (ONPE, 2014a/b). Consequently, provincial authorities are more likely to be elected to office with a smaller proportion of the popular vote, and/or govern in the interests of a smaller constituency. Espinar's fragmented politics has thereby contributed to generally high levels of dissatisfaction in local politics which, has increased the likelihood that grievances against Tintaya will escalate.

Finally, the expansion of the extractive frontier has threatened rural communities whose livelihoods remain directly tied to the natural environment, and has contributed to the likelihood of social conflict in the region. The majority of the province's indigent population is comprised of rural peasant and indigenous groups who continue to rely on subsistence activities for livelihood production (Caceres & Rojas, 2013: 52). For this

¹⁴⁶ Interview 06/06/2014, translated from Spanish.

section of the population the proliferation of open-pit mining projects has placed acute stress on traditional productive assets such as land, water, and livestock. For instance, the more than 70 high altitude lakes speckling the province's terrain have been slowly encroached upon by industrial mining activities. Today, 281 concessions cover approximately 187 000 ha², while land supporting traditional agricultural and pastoral activities in Espinar has been reduced to 9% of the province's total surface area (Caceres & Rojas, 2013: 24, 44). In context of high rural poverty and natural resource dependence, the proliferation of industrial mining has contributed to social conflict risks. As one local journalist who has extensively covered the Tintaya conflict commented, the socio-environmental risks and impacts rural groups have confronted have made it easy for political actors to galvanize popular opposition to mineral extraction:

[P]easant communities in the area are very fragile and often manipulated by political groups, such as the defense fronts and politicians. They are constantly told that mining is bad for them, that the lakes are going to disappear, and that their livestock is going to die, so they react to these threats that are either created or magnified by local leaders, and from there conflicts surge and persist permanently.¹⁴⁷

In summation, the aforementioned socio-economic and politico-institutional characteristics suggest Espinar is an investment setting characterized by high generic social conflict risk. However, as I demonstrate below, Tintaya's multinational owners have differentially impacted the intensity and scale of social conflicts within the context of the province's political economy of contention, indicating variation in their marginal effect as security governing agents.

¹⁴⁷ Interview 05/06/2014, translated from Spanish.

6.2.1 The ebb and flow of conflict: different firm approaches

The Tintaya gold and copper mine is located 10km southeast of the town of Yauri, in between the Ccañipía and Salado rivers. Exploitation of the deposit began in 1985 after the state-owned Empresa Estatal Minera Asociada Tintaya S.A. expropriated land from the community of Antaycama in 1982. Under state ownership Tintaya rapidly transformed into Peru's third largest copper producer, with productive capacity increasing by more than 50% following its transfer to the private sector in the mid-1990s (De Echave et al, 2005; De Echave, 2009). In 1994 Tintaya was briefly owned Magma Copper Company, however, this American firm was absorbed by Australian-based Broken Hill Proprietary in 1996, which subsequently merged with British-based Billiton PLC in 2001 to form BHP-Billiton (BHPB). In 2006, the Swiss firm Xstrata Copper bought the mine and subsequently merged with British-based Glencore in 2013 to form its current owner, GlencoreXstrata (GX). While Tintaya initiated closing procedures in 2009, its lifespan has been extended due to the development of the nearby Antapaccay, Corrocohuayco, and Las Bambas projects which share much of its processing and transportation infrastructure.¹⁴⁸

Eleven hamlets, five of which formerly comprised the mother community of Antaycama, are currently classified as Tintaya's area of direct influence. Situated along

¹⁴⁸ Antapaccay is an open-pit copper mine located 10 km southwest of Tintaya. It began operating in 2012 with an estimated productive capacity of 150 000 tonnes of copper per annum and a lifespan of 20 years. Corrocohuayco is an open-pit gold and copper mine located 9 km southeast of Tintaya. While currently in its feasibility stages, it has an estimated productive capacity of 100 000 tonnes of copper per annum (Glencore Peru, n.d.). Las Bambas is an open-pit copper, gold, silver, and molybdenum mine with an estimated lifespan of 20 years. While this project is located in the neighbouring Apurímac region, copper concentrates will be transported to Tintaya for processing (MMG, n.d.).

the Salado river basin at the mine's northern and northeastern borders respectively are the communities of Bajo and Alto Huancane. The communities of Tintaya Marquiri, Huano Huano, and Huisa (whose lands were partitioned into two) are located along the central northern and southern borders. The community of Alto Huarca is located at the southwestern border next to the Huinipamapa tailings dam. Finally, the communities of Huarca, Anta Collana, Huisa Collana, and Llanqueme are located downstream of the Ccañipia river basin. The province of Espinar, which comprises 8 municipal districts¹⁴⁹ and is represented by elected officials in Yauri is considered Tintaya's area of indirect influence. Social conflict with the mine's multinational owners have involved both direct and indirect stakeholders. However, as I demonstrate below, BHPB was more effective at preventing conflict from escalating into violent, province-wide insurrection against the operation. While a few small-scale outbreaks occurred under BHPB's ownership, the company participated proactively in multilateral dialogue and development. Since taking over the operation, however, GX's actions have undermined the legitimacy of its predecessor's community engagement activities, and consequently the company's legitimacy as a socially responsible security governing agent. Not only has it been reticent to participate in multilateral dialogue and development, it has exhibited greater dependence on its coercive alliance with state security forces. As a result, political entrepreneurs at the provincial were able to foment large-scale opposition to the operation, while articulating hardline positions that contributed to the escalations of hostilities in 2012. GX's traditional approach to security governance was thereby a central factor in the most violent outbreak

¹⁴⁹ Alto Pichuga, Condorama, Corporaque, Espinar, Ocoruro, Pallpata, Pichuga, and Suyckutambo.

of social conflict in Tintaya's 30-year history.

6.2.2 Origins of contemporary social conflict at Tintaya

Like many remote highland provinces in Peru, Espinar is located at the peripheries of government influence. Historically, residents have had minimal interaction with central authorities and thereby limited access to public goods. Naturally, Tintaya's development under state ownership generated widespread expectations in the early 1980s that it would catalyze provincial development through employment and investment in basic infrastructure and social services. Upon its arrival, rural communities lobbied officials from the Empresa Estatal Minera Asociada Tintaya S.A. to pave roads, and develop electrical and water-based infrastructure, but were unsuccessful (De Echave, 2009: 130).

As the mine proceeded from the exploration and construction phases into exploitation, its social and environmental impacts became emerging concerns for surrounding communities. As the director of the Lima-based NGO, CooperAcción, and former vice minister of the environment, Jose de Echave explained,

under state ownership Tintaya caused a dramatic rupture of the previous social, cultural, and economic equilibria in the area. First, the state-owned company expropriated land in a highly abusive manner; that was a complicated "birth certificate" for the project. Second, in the 1980s there was no such thing as social and environmental responsibility; this was the era of "old" mining. The project basically imposed huge environmental costs on communities without any mitigation measures.¹⁵⁰

For members of the former community of Antaycama, the state's land acquisition practices were particularly egregious. Not only did they allege human rights abuses in the expropriation of lands, the company paid below market value (US\$ 3 per hectare) while falsely promising land owners employment at the mine (De Echave, 2009; 130; Barton,

¹⁵⁰ Interview 05/05/2014, translated.

2005: 21). Additionally, from 1985-1990 fence-line communities claimed Tintaya was responsible for polluting the Ccañipía and Salado rivers, reducing freshwater for human consumption and contaminating traditional grazing lands. Since environmental baseline studies were not standard industry practice at the time, communities could not causally demonstrate the operation was responsible for environmental degradation and thereby mount a successful legal case. Unmet expectations of provincial development, coupled with adverse social and environmental impacts sparked the first major outbreak of conflict.

On May 1st, 1990 Yauri's then mayor, Mario Ccorahua, organized protests that culminated in a 26-day takeover of the mine, during which several Tintaya employees were taken hostage. While the escalation succeeded in forcing the company to negotiate, the resulting agreement produced only modest advances for aggrieved parties. Tintaya officials agreed to develop electrical infrastructure in the town of Yauri (but not surrounding areas), and provide some financial support for pastoral and artisanal activities. However, injustices surrounding land expropriations and emerging grievances over environmental impacts were unattended (Caceres & Rojas, 2013: 61; De Echave, 2009: 132).

The mine's transfer to the private sector in the mid-1990s presented stakeholder groups with new opportunities for resolving outstanding grievances. At the turn of the century the global mining industry began to publicly express commitments to CSR, which locals could leverage in pursuit of their interests. Nevertheless, conflict has remained a salient feature of community-firm relations. However, Tintaya's multinational owners have exhibited distinct commitments to community engagement as a social conflict management strategy, which has directly influenced their ability to prevent and manage

violent escalations. Reflecting on corporate contributions to social conflict at Tintaya, Jose de Echave stated,

BHP-Billiton demonstrated the greatest capacity to open itself up, to listen and find solutions by taking into consideration the perspective of stakeholders. It was a company that learned from conflict. If we look at all the companies that have owned Tintaya, BHP-Billiton had the greatest capacity to manage social conflict in Espinar. I think Xstrata is much more conservative, and even worse since the merger with Glencore...it hasn't had the capacity to refresh the agreements and dialogues that the previous owners signed and participated in. It hasn't demonstrated a lot of flexibility, or utilized the instruments that were made to pacify the situation.¹⁵¹

6.2.3 BHP-Billiton: institutionalizing broad stakeholder engagement

As noted above, BHPB operated Tintaya for a 10-year period (1996-2006) during which three escalation episodes took place. Under the company's tenure these outbreaks were largely contained due to its receptiveness to dialogue and development activities. Crucially, the first conflict escalation under BHPB had the effect of establishing a novel institutional framework for community engagement that would serve as the basis of its approach to security governance in the province.

At the turn of the 21st century simmering tensions over land acquisitions, environmental impacts and unmet expectations of development combined with two proximate triggers to spark the first escalation under private ownership: the company's decision to expand the operation, and the election of Oscar Mollohuanca¹⁵² as Espinar's provincial mayor. During its first four years of ownership the company expanded the mine's geographic scope, anticipating an eventual rise in international commodity prices. As a result, the further relocation of several fence-line communities was required in order to construct a new copper oxide plant and enlarge the Huinipampa tailings dam. However,

¹⁵¹ Interview 05/05/2014, translated.

¹⁵² At the time, Mollohuanca was a member of the leftist MINKA party and was elected in 2000 on a platform to redefine the province's relationship with Tintaya.

BHPB's land acquisitions allegedly replicated similar abuses to those that occurred under state ownership. As Barton (2005: 22) notes:

Community members contended that these land purchases had been conducted in ways that were both unethical and illegal. In some cases, company representatives had negotiated with and purchased land from community agents who lacked the authority to sell communal land. In other cases, the company was accused of misrepresenting its power to expropriate the land in an attempt to weaken the bargaining power of property owners. Many local residents whose land had been purchased claimed that at the time of the sale they did not have full knowledge of their legal rights nor the true value of their land.

Additionally, the project's expansion amplified historic concerns over Tintaya's environmental impacts, while reigniting debate over the operation's contribution to provincial development. Within this milieu, the early 2000s witnessed a revival of social mobilization against Tintaya.

On September 5, 2000 Oscar Mollohuanca, unsuccessfully led a series of protests in Cusco city designed to scale-up the province's grievances in hopes of leveraging regional pressure against the company. On March 2nd, 2001 Mollohuanca formalized a list of demands¹⁵³ in which the province demanded BHPB provide financial and organizational support for infrastructure investment and sustainable development projects; engage in joint monitoring to identify and mitigate environmental risks/impacts; and provide job training and preferential hiring for locals (De Echave, 2009: 134). Subsequent to this Mollohuanca announced a provincial strike for May 21, 2001 (the 11-year anniversary of the first occupation). However, on the eve of protests, fearing a violent escalation and possible mine takeover, BHPB agreed to engage stakeholders in an institutionalized multi-

¹⁵³ These demands would eventually become the basis for negotiations over a provincial development treaty known as the *Convenio Marco* (see below).

stakeholder dialogue and development initiative with fence-line communities that would become known as the *Tintaya Dialogue Table*.¹⁵⁴

While locals and NGO observers insist BHPB's response was result of the threat of escalating protest activities, company officials suggest its receptiveness was motivated by a series of organizational cultural shifts that were also taking place within the firm at the time. Reflecting on this, Mollohuanca stated, "[A]fter searching out mechanisms for dialogue, what else was there left to do aside from adopting means of force? Sadly, in our country, authorities have only listened to populations when they adopted means of force."¹⁵⁵ A local representative of the Lima-based NGO, CooperAcción, echoed this argument stating, "the only way the people of Espinar have been able to get the company to respect their rights to things like land and development has been through protest."¹⁵⁶

However, company representatives assert that the decision to participate in the dialogue table was motivated by internal transformations within the company as a result of the institutionalization of CSR practice. In 1999, prior to its merger with Billiton, BHP faced mounting international scrutiny after 90 million tons of industrial effluent were discharged into a local river at its Ok Tedi mine in Papua New Guinea. In the wake of this incident, BHPB wanted to prevent escalating tensions in 2001 from resulting in violence at Tintaya in order to prevent further reputational damage to the company. BHPB's former Manager of Community Relations and Institutional Affairs explained that officials were in

¹⁵⁴ The Tintaya Dialogue Table has been widely recognized as an innovative mechanism for peacefully managing community-firm relations (Barton, 2005; Katsuri, et al., 2006; De Echave et al., 2009; Anguelovski, 2011; Bond, 2014).

¹⁵⁵ Interview 12/06/2014, translated.

¹⁵⁶ Interview 20/06/2014, translated.

the process of a radical learning experience, in which they realized its local-level CSR and community relations staff had to play a greater role:

BHP was a company that was least likely to give into protest demands just to keep the Tintaya operation going. They didn't think that way; BHP is a big company and Tintaya was a relatively small operation. BHP had just this situation with Ok Tedi a few years prior which totally destroyed the company's reputation in Australia. The company had behaved very poorly, but in the course of coming to the realization it was wrong, BHP actually developed a real commitment to start trying to do things right...Both at the local level and at the head office level there was a desire not to repeat this at Tintaya...At the time I was asked to meet with [Australia's mining Ombudsman] who had just travelled to Espinar, and out of those discussions locals agreed to meet with us. I think the company brought me on because I had a pretty good reputation in community-relations in Peru, and my involvement sort of signaled to locals that we were serious about resolving these issues. The company thought more transparency, more responsiveness, more openness, and more respect were just better for everyone involved...Going into the dialogue table our strategy was nothing more than being open to listening and the possibility that community grievances were well founded, and to try to arrive at solutions.¹⁵⁷

Prior to deliberations with communities BHPB also held a series of meetings with its Peruvian staff to set out expectations during the dialogue process, and crucially, to ensure that all sub-units supported the engagement strategy:

Before the first actual dialogue table meeting we decided to have an internal workshop, an internal alignment meeting to make sure everyone at the Tintaya office was on the same page. I think the chances of successfully resolving the issues with communities without this meeting would have been pretty poor. The General Manager and some of the higher ups at the operation at the time were a little resistant at first, but they knew what head office wanted, and they were basically told, that their jobs would be at risk if they didn't start to come around. They were given the message that there's going to be a different way of thinking about this. So there was soft alignment and hard alignment from within the company.¹⁵⁸

The company's pre-dialogue table activities suggest efforts to empower local-level community relations and CSR staff indicating activities during the dialogue process would be driven by the interests and understandings of this sub-unit and not the company's

¹⁵⁷ Interview, 06/08/2014

¹⁵⁸ Interview, 06/08/2014

operational arm. Moreover, BHPB decided to suspend operational activities while the dialogue processes proceeded. Accordingly, the company could ensure its activities would be more attuned to the “social time” of conflict management and not unduly influenced by the interests of operational sub-units seeking to respond to market conditions.

In February 2002 the *Tintaya Dialogue Table* was formally convened as a multilateral conflict resolution mechanism between members of 5 fence-line communities, provincial officials, and BHPB staff. Moreover, negotiations would take place in the presence of third-party NGOs (e.g., Oxfam Australia, CONACAMI,¹⁵⁹ CooperAcción) to ensure the process was transparent and legitimate. Parties agreed the process would be based on broad and active participation, consensus-based decision making, joint fact finding, and confidentiality (Katsuri et al., 2006). Moreover, communities and individuals who self-identified as the operation’s greatest victims were encouraged to actively participate (Aguelovski, 2011: 389).

The dialogue table consisted of five working commissions. A land commission was established to facilitate compensation for expropriations in the 1980s under state ownership, and the late 1990s under BHPB. This was coupled by a human rights commission to address allegations of human rights abuse committed by Tintaya officials and security forces. An environmental commission was established to jointly monitor the water, land, animal, and human health impacts of the mine. A sustainable development commission was established to address poverty reduction and sustainable development. Finally, a coordination and follow-up commission was established to monitor the progress

¹⁵⁹ The National Coordinating Body for Communities Affected by Mining.

of the agreements reached by each commission (De Echave 2009: 134; De Echave et al 2005: 12-25).

The Tintaya Dialogue Table proved an effective conflict resolution and prevention mechanism with fence-line communities. Not only did it successfully facilitate the resolution of several grievances that underlay social conflict, it also prevented future conflicts from escalating by identifying newly aggrieved parties that were not originally considered within the project's area of direct influence. As De Echave et al. (2005: 48) note,

Among the most significant achievements were the agreements that enabled the communities to regain land, receiving more in exchange than they had lost; the solution of human rights cases; the implementation of environmental oversight with community participation in the mine's area of influence; funding of development projects; and the company's commitment to seek prior consent from the communities before beginning new projects on their lands.

Additionally, the process enabled the company to preempt conflict by identifying newly affected communities and including them within the operation's area of direct influence. For example, by facilitating the participation of a group of organizations called the Comité de Concetración Provincial de Espinar (The Provincial Consensus Committee of Espinar) it was brought to BHPB's attention that four communities immediately downstream of the Ccañipía river basin were concerned about the expansion of the Husipampa tailings dam. The communities of Huarca, Anta Collana, Huisa Collana, and Llanqueme had developed a complex irrigation system that supplied approximately 700 ha of pastures and were concerned about possible water pollution and restrictions. As a result, the company was able to expand its sphere of engagement (De Echave et al., 2005: 44).

However, as a stand-alone security governance mechanism the Dialogue Table did not adequately address the distributional concerns between the operation's areas of direct

and indirect influence. While it facilitated the participation of provincial authorities who theoretically represented the interests of a broader cross-section of stakeholders, in practice it focused on conflict resolution with fence-line communities. As Anguelovski (2011: 392) notes,

for activists living outside those five communities, the Dialogue Table was a “secretive mechanism” with meetings occurring behind closed office doors inside the mine, without being opened to members outside the Dialogue Table, without benefitting the larger population around the mine, and without communicating regularly with this population.

Moreover, provincial representatives could easily exit from the process which increased the likelihood of protest methods being used to achieve their goals. As the Dialogue Table became focused on fence-line communities the interests of province became sidelined, and eventually Yauri’s mayor Oscar Mollohuanca withdrew. BHPB’s former Manager of Community Relations and Institutional Affairs recognized this flaw:

There are a lot of examples out there that show that it’s a fundamental mistake to concentrate just on your most proximate stakeholders and think that by doing a good job with them you’re on steady ground, certainly the Tintaya Dialogue Table made that mistake...The company should have more proactively reached out and tried to make sure that provincial authorities stayed in the process, or at least develop a separate process. Once Oscar effectively withdrew the company just sort of let him go. If we hadn’t done that we might have been able to avoid some of the subsequent problems we had...At the provincial level there were legitimate concerns about how the mine was going to contribute to the economic development ...I could see him getting frustrated, in retrospect I can see how frustrating it would have been for him, and how easy it would be to resort to the old “organize a protest” way of doing things, rather than seek a solution through dialogue.¹⁶⁰

While Mollohuanca’s term ended in 2002, Yauri’s newly elected mayor, Luis Antonio Alvarez Salcedo, adopted a confrontational position towards the company. Rather than reengage BHPB through ongoing Dialogue Table negotiations, in May of 2003 Alvarez led

¹⁶⁰ Interview, 06/08/2014

a protest in which approximately 1000 people stormed the mine demanding BHPB pursue a parallel initiative with the province. This confrontation led to several injuries following clashes between protestors and police, allegedly resulting in one fatality.¹⁶¹

This first major outbreak of violence prompted the company to engage provincial officials in a parallel process that would eventually yield a sustainable development treaty with indirect stakeholders known as the *Convenio Marco* (Framework Agreement). The treaty contained 21 clauses on issues ranging from the participatory monitoring and mitigation of environmental impacts, to capacity-building, training and preferential employment opportunities for local labour. The centerpiece of the *Convenio Marco* was clause 5 in which BHPB pledged to annually invest a maximum of 3% of its *pre-tax* profits, or a minimum of US\$1.5 million, to finance development and poverty reduction initiatives in districts throughout the province.¹⁶² The provincial mayor, district representatives, and civil society organizations would jointly manage the allocation funds with the support of BHPB staff, with decisions being made by consensus (*Convenio Marco*, 2003). In effect, the *Convenio Marco* replicated the basic structure of the Tintaya Dialogue Table on a provincial scale.

The *Convenio Marco* was a novel achievement with respect to security governance in that it sought to address the distributional asymmetries between Tintaya's areas of direct and indirect influence. Prior to the treaty districts throughout the province viewed communities closest to the mine as unfair recipients of sustainable development projects

¹⁶¹ Interview local journalist, 05/06/2014.

¹⁶² This clause of the treaty was highly unique, as it represented the first time that a multinational mining company agreed to directly transfer a percentage of its annual profits *above and beyond* regular tax payments and royalties, while committing itself to long-term development cooperation (De Echave, 2009: 137).

and compensatory financing, and were perceived to be “allies” of the company. As a result, this created “a lot of confrontations and jealousy amongst communities.”¹⁶³ By agreeing to engage with indirect stakeholders the company could not be accused of engaging in clientelistic practices, or by contributing to relative deprivation within Espinar.

However, within the context of Espinar’s political economy of contention the fifth clause of the treaty became a target for provincial actors seeking to enhance their political profile. Specifically, in 2005 Alvarez ramped up demands that BHPB increase the percentage of pre-tax profits it invested in the provincial development fund (De Echave 2009: 143). On May 23rd, just 20 months after the treaty was signed, Alvarez surprised many observers by leading a second protest in which more than 2000 people from districts throughout the province and fence-line communities stormed the mine, forcing a 25-day suspension of operations and prompting Tintaya employees and machinery to be evacuated. Within two weeks, the company agreed to initiate new talks with the province.

While on both occasions protests over the Convenio Marco led to clashes with police resulting in injuries and arrests, the violence was contained without fatalities or escalations into states of emergency. Crucially, the fact that protestors successfully broke into Tintaya property and forced production delays as a negotiating tactic suggests a strategic retreat by BHPB. Since 2001 the PNP have been installed at the mine and have been authorized to use force to protect private property under “Cooperation Agreements for the Provision of Services that are Exception and Complementary to Police Duties” (GRUFIDES, 2013: 11). However, interviews with company representatives and third party observers indicate that BHPB’s alliance with state security forces was not viewed as

¹⁶³ Interview with Jose De Echave, 05/05/2014, translated.

a major source of insecurity for locals, as the company was known to generally exercise restraint with its usage of security forces. Reflecting on these events BHPB's Manager of Community Relations and Institutional Affairs at the time stated:

I remember the general manager at the time had a talk with the police and said, "We don't want anybody to get hurt. We'd rather you withdraw than have people get hurt." Companies have a tremendous amount of influence over the police. Anybody that tries to argue differently is just wrong... You do have a lot of influence, and our general manager used that... At a higher level, the commanding officers and all the way up to the Ministry of the Interior, know mining is in the national interests, and being associated with a successful mining project is good for their career... So if you sit down with the head of the national police or the guy on the ground and say, "Look, I know that the general feeling amongst you guys is that with these damn communist protestors what you have to do is rough them up a bit, but with our company, the guys in head office are so worried about the company's reputation, and it's really important that nobody gets hurt. We don't want to operate that way, and there will be shit to pay if that happens." This doesn't mean that you control them, but it does mean that you have a lot of influence over them. The whole Voluntary Principles are grounded on the idea that you have influence over security forces.¹⁶⁴

A representative for the NGO, Human Rights Without Borders, echoed observations regarding the company's restricted use of police forces:

[U]nder BHP issues with the police never escalated to the point that they have today; people were never detained and assaulted by the police inside the encampment. I think in that sense BHP was more responsible... BHP had perhaps the best relationship with communities in the mine's history. I've spoken with several labour and community leaders who've consistently said that at least BHP sat down with them, listened, and tried to come to some agreement however difficult.¹⁶⁵

While the Convenio Marco would remain an object of social conflict after BHPB sold Tintaya, under GX negotiations over its implementation would become more polarized as a result of the company's general retreat from multi-stakeholder community engagement activities and usage of state security forces.

¹⁶⁴ Interview, 06/08/2014

¹⁶⁵ Interview, 16/06/2014, translated.

6.2.4 GlencoreXstrata: the dismantling of stakeholder engagement

In 2006 BHPB sold Tintaya to GX (along with the Antapaccay, Corocchohuayco, and Las Bambas projects) as part of a business strategy designed to focus on fewer operations (Anguelovski, 2011: 390). However, observers suspect the sale was also part of a risk reduction strategy given the persistence of social conflict at the operation (Caceres & Rojas, 2013; De Echave, 2009). As a condition attached to its sale, GX agreed to honour settlements reached under the Tintaya Dialogue Table and Convenio Marco, assuring stakeholders it would continue to reserve 3% of its annual pre-tax profits for a provincial sustainable development fund, preferentially contract/hire local labour, and participate constructively in environmental monitoring. However, under GX social conflict has intensified as a result of the company's approach to community engagement.

Since assuming ownership, stakeholders have accused GX of failing to engage transparently in dialogue, utilizing social investments to foster political patronage, and strengthening its alliance with state security forces as a coercive deterrent to protest. As a result, the company's legitimacy has suffered, making engagement efforts during crisis periods less effective. Consequently, in 2012 Tintaya witnessed the largest and most violent outbreak of social conflict in its 30-year history. In late May of that year protests escalated when several thousand protestors clashed with the PNP outside the Tintaya encampment, killing three and injuring several hundred civilians and police. Additionally, ten GX employees and Cusco's district attorney were taken hostage.¹⁶⁶ This outbreak of

¹⁶⁶ Miguel de la Cruz. "Protesta en Espinar degeneró en muertos." *La Republica*. Tuesday May 29th, 2012; n.a. "Fiscal secuestrado en Espinar mencionó que que casi fue quemado vivo." *La Republica*. Thursday May 31st, 2012.

violence culminated in a 30-day state of emergency in which the Peruvian Armed Forces intervened in the province to restore law and order.¹⁶⁷

Within the context of rising commodity prices and new project developments, provincial authorities have sought to renegotiate the terms of the Convenio Marco with GX. However, as Jose De Echave, director of the Lima-based NGO CooperAcción observes, since taking over the operation GX, “hasn’t had the capacity to refresh the agreements and dialogues that the previous owners had signed and participated in. It hasn’t demonstrated a lot of flexibility or willingness.”¹⁶⁸ Additionally, rural communities both within and outside the operation’s area of direct influence have expressed concern over the cumulative environmental and human health impacts of the project. While studies on water and soil quality demonstrate an elevated presence of heavy metals, the absence of environmental baselines studies has allowed GX to deny Tintaya’s activities are responsible. Locals allege the company has failed to comply with previous agreements pertaining to joint environmental monitoring and resource management. Finally, GX’s proprietary NGO, *Fundación Tintaya*, has become an emerging point of contention. Established in 2007, *Fundación Tintaya*’s mandate is to:

design and execute capacity building projects and programs in order to strengthen and develop capacities, abilities and skills in the population in the province of Espinar in the trades and technical business activities that enable the population to integrate into the commercial labour market. To promote and develop preventative activities of health promotion, nutrition and education. To support research on technologies that promote the development of natural resources and the potential for tourism in the province of Espinar. To execute social infrastructure projects in accordance with agreements and treaties. (*Fundación Tintaya*, n.d., translated).

¹⁶⁷ N.a. “Estado de Emergencia en Espinar fue oficializado hoy en diario ‘El Peruano’.” *La Republica*. Tuesday May 29th, 2012.

¹⁶⁸ Interview 05/05/2014, translated.

While its sustainable development activities are formally separate from the Convenio Marco and Tintaya Dialogue Table, locals accuse GX of using the NGO to influence community leaders who preside over the Convenio Marco's management committee, targeting social investment projects in their districts in order to fracture the province's ability to renegotiate the development treaty (Caceres & Rojas, 2013: 62-63). As a local representative of the Lima-based NGO, CooperAcción, observed:

In the years leading up to 2012, many district governments wouldn't even negotiate on locals' behalf; the company has basically captured them to ensure they implement policies in their favour...In order to determine what projects should be undertaken the Convenio Marco has its management committee which is comprised of the provincial mayor, representatives from Espinar's 8 districts, and company representatives. The problem is that there is no auditing or monitoring of how money is spent. This has basically allowed the company to finance things like local fairs and holiday parties in surrounding communities. Things that have nothing to do with development but nevertheless give the impression to recipient communities that the company is acting on their behalf. These monies are explicitly reserved for provincial development, but they're not being used as such.¹⁶⁹

While tensions over these issues simmered since GX's takeover, two proximate triggers were responsible for the timing of the violent outbreak in 2012. First, in 2011 Oscar Mollohuanca was reelected to provincial office having campaigned on a platform to renegotiate the company's social license with the province.¹⁷⁰ Specifically, Mollohuanca demanded GX increase the financial support delivered to the province through the Convenio Marco to 30% of pre-tax profits.¹⁷¹ He justified the radical increase utilizing the discourse of resource nationalism stating,

mining companies do not support the country like they should. They allude taxation; they should be paying much more than what they currently pay. For example, last

¹⁶⁹ Interview 20/06/2014, translated.

¹⁷⁰ In 2012 Mollohuanca was elected as a candidate for the leftist Tierra y Libertad party. This party was founded by Father Marco Arana from Cajamarca and is perceived by central authorities and mining companies as anti-mining.

¹⁷¹ Jose Victor Salcedo. "El primer problema es la contaminación, no el convenio marco." *La Republica*. Friday June 1st, 2012.

year [2013] with the initiation of operations at Antapaccay the company had the most productive year in its history. But this hasn't translated into more financial support through the mining canon or royalty payments, and that's a major contradiction.¹⁷²

While the situation between the company and the province became tense following his election, relations remained peaceful. However, in January 2012 the repression of a separate labour dispute initiated a cascade of support for direct action that would eventually result in a violent escalation of conflict. That month long haul truck drivers from Espinar alleged GX reneged on its obligation to preferentially contract local transport companies as per clause 11 of the Convenio Marco. While the protest was initially confined to transport contractors, support grew in scope after police installed at the mine violently quelled their peaceful protest (Caceres & Rojas, 2013: 63).

On January 28th, Mollohuanca and representatives of provincial and rural social organizations expressed solidarity with the contractors announcing a provincial strike for May insinuating Tintaya would be occupied and its roadways blocked if the company did not establish a dialogue table with stakeholders to address grievances that had mounted since its takeover. Moreover, in order to draw in rural communities, protest leaders framed the strike as a response to the adverse environmental impacts that had accrued over Tintaya's lifespan. GX's reply was to declare the protest movement as a politically opportunistic ploy designed to shift attention from mounting dissatisfaction with Mollohuanca's administration's performance. Moreover, company officials refused to engage in dialogue, viewing the escalation as an extortion strategy. For GX, engagement was not an effective conflict prevention mechanism, but rather a credible signal the

¹⁷² Interview 13/06/2014, translated

company could be easily succumb to protest demands. As a former Manager of Community Relations and Institutional Affairs stated,

Over the years some very perverse interactions have emerged rooted in blackmail on part of the population towards the company. In order not to put the operation at risk, the company has basically had to capitulate to these bad practices on the part of civil society and its leaders.¹⁷³

However, from the perspective of protest leaders and third party observers, GX's *de facto* non-engagement was merely a continuation of a status quo that had left few options other than direct action. For example, as the former leader of the Defense Front of Espinar (FUDIE) noted, "If the company had negotiated in good faith we wouldn't have had to go to such extremes."¹⁷⁴ Observers concur that the company's unwillingness to engage provincial authorities in dialogue forced them to take direct action. A journalist who covered the 2012 conflict stated, "It just seemed all avenues for dialogue with the company had broken down and I think that that's why it came to that point and they felt they had no other option."¹⁷⁵

On May 21, 2012 protestors from throughout the province initiated a campaign of direct action.¹⁷⁶ Participants blocked highways and even burned down the Fundación Tintaya's headquarters in Yauri. However, the most violent episode occurred when approximately 3500 people attempted to occupy the Tintaya encampment on May 29th

¹⁷³ Interview 26/05/2014, translated.

¹⁷⁴ Interview 07/06/2014, translated.

¹⁷⁵ Interview 13/06/2014.

¹⁷⁶ As a local representative of CooperAcción noted, "Basically the people who protested in 2012 were from communities from districts outside the mine's area of direct influence. These people wanted more financial support under the Convenio Marco. Of course there were some people from around the mine who were protesting against environmental impacts, but the vast majority of people were from other districts." Interview 20/06/2014, translated.

(allegedly at the behest of Mollohuanca and FUDIE). This action sparked a day long clash with approximately 1500 members of the PNP who had been installed at the mine. As a result, three protestors were killed and hundreds wounded (including dozens of police), with allegations that 23 protestors who had been detained on Tintaya property were tortured and subjected to death threats.¹⁷⁷ Protest leaders blamed the company for the deadly consequences, citing its perceived willingness to use police to safeguard private interests over public safety,

Every day there was friction with the police, but on the deadly day, the 28th of May the police started shooting at people and killed three, there were various people hurt. On that day they were given an order to kill. The government gave the order, with the consent of the company.¹⁷⁸

A human rights lawyer representing various victims of the violence echoed this observation:

While the police were installed in the mine under BHP, this has been a bigger problem under Xstrata. For example, during the [2012] conflict, all of the protestors who were detained were taken inside the mining encampment, and all of the logistics that allowed that to happen were facilitated by the company. One of the important things that the 2012 conflict demonstrates was a clear relationship between the police and the company, and that the company violated international standards with their usage of the police and this has done a lot to discredit the company in the eyes of many locals, and since the merger with Glencore even more so.¹⁷⁹

It was not until several weeks after a state of emergency had been declared that GX officials began to participate in a dialogue process with local leaders and the central government.¹⁸⁰

The province accused GX of intentionally avoiding preemptive dialogue as part of a broader strategy designed to wait out Mollohuanca's administration in hopes that a

¹⁷⁷ Stephanie Boyd. "Who's the ugliest of them all? GlencoreXstrata is a hot contender for worst corporation award." *New Internationalist*. Tuesday December 3rd, 2013.

¹⁷⁸ Interview 13/06/2014, translated.

¹⁷⁹ Interview 16/06/2014, translated.

¹⁸⁰ Jose Victor Salcedo. "Demandas en Espinar deben solucionarse en cuatro meses." *La Republica*. Friday June 13th, 2012.

candidate more amenable to its interests would be elected to provincial office in 2014.¹⁸¹

A journalist who has extensively covered the 2012 conflict in Espinar recounted:

The company really got its back up and wouldn't negotiate with him or his government. They really just thought they were terrorists...The whole mining industry is very afraid of Tierra y Libertad, and really doesn't want them to take power anywhere they have a candidate. I think that the company just had it out for Mollohuanca from the beginning, because if you look at his demands, aside from the fact that they were asking for 30% [of pre-tax payments] which they were obviously going to negotiate down, the fact that the company didn't even want to sit at the table and negotiate with what was, in effect, a pro-mining administration didn't make sense. Mollohuanca's administration never said "we want Tintaya closed", they were calling for improved environmental monitoring, sustainable development, and community participation; this is stuff that isn't really unreasonable considering what mining companies are doing these days with local communities. Xstrata had this unfounded idea that Tierra y Libertad is evil and didn't want to negotiate with the provincial government, and that clearly contributed to the outbreak of violence.¹⁸²

Like MYSA, GX's response to the 2012 conflict indicates the predominance of a traditional organizational culture in which local stakeholders are perceived not as strategic partners in peace and security, but rather as threats to production. By depicting opponents as political hardliners and extremists, the company effectively signaled the futility of dialogue. However, in 2012 GX was dealing with the same political actors and grievances as BHPB in 2001, and as the latter demonstrated it was possible (albeit challenging) to arrive at a negotiated solution to the conflict through multilateral dialogue. Yet, rather than adopt a proactive response, GX (like MYSA) sought to wait-out opponents in hopes that a change in the political milieu would create more favourable negotiating conditions for the company.

¹⁸¹ Stephanie Boyd. "Xstrata's killing fields." *New Internationalist*. May 2012.

¹⁸² Interview 13/06/2014

6.3.1 Conclusion

This chapter has illustrated MNCs' marginal effect on security governance by tracing how the intensity and scale of social conflict involving the Tintaya operation has fluctuated in accordance with changes in the mine's ownership. While Tintaya's multinational owners have confronted an external environment characterized by identical security risks – a political economy of contention characterized by high rural poverty, low bureaucratic capacity, and local politics that encourage protest activities – BHPB and GX have exhibited divergent capacities to manage conflicts that have emerged in response to the Tintaya operation.

While some relatively small outbreaks of conflict emerged under BHPB's tenure, it prevented them from escalating into larger manifestations of violence. The company exhibited a willingness to proactively engage with a broad cross-section of stakeholder groups through multilateral dialogue and development initiatives such as the Tintaya Dialogue Table and Convenio Marco. Not only did these fora credibly signal to aggrieved groups that BHPB would seek to resolve grievances through deliberative mechanisms, they bound BHPB to abide by the terms and conditions of the agreements reached within them. Moreover, the legitimacy of the company's dialogue and development activities was enhanced by the limited use of preventive coercion during crisis periods. As I argue, its security governing efficacy in this regard can be traced to the relatively empowered position of its community-relations/CSR sub-unit within the organizational hierarchy. For BHPB, the first conflict outbreak at Tintaya came on the heels of a reputational disaster for BHP (e.g., Ok Tedi tailings dam failure), in which the company began to reevaluate its CSR protocols. At Tintaya this had the effect of bolstering the influence of community relations/CSR staff over the behaviour of the company vis-à-vis society.

As this chapter further illustrated, however, firms can undermine the governing legitimacy established by their predecessors' engagement activities, and with it, increase the risk that specific conflicts will escalate into violence. Following 2006 GX's takeover, stakeholder communities accused the company of failing to abide by the terms and conditions of previous agreements reached under the Tintaya Dialogue table and Convenio Marco, and of being generally less responsive to conflict mitigation and management through deliberative processes. What's more, GX's proprietary NGO, Fundación Tintaya, was widely accused of hijacking the Convenio Marco's management committee, utilizing it to selectively disperse social investments in a clientelistic manner. In addition, locals perceived public and private security forces to be more aggressive instruments of control under GX's tenure, intimidating locals who attempted to lodge grievances at the company's community relations office. As a result of the operation's declining social status, political actors were able to mobilize opposition against Tintaya in 2012, fomenting a provincial uprising that resulted in multiple deaths and hundreds of injured, the most violent in its 30-year history.

Chapter 7: Conclusions and Critical Reflections on the Efficacy of Corporate Security Governance and the Implications of MNCs as Governing Agents

7.1.1 A brief recap

This dissertation has examined the efficacy of MNCs as security governing agents in areas of limited statehood through an analysis of mining companies' efforts to manage social conflict. Since the beginning of the 21st century MNCs have increasingly utilized community engagement to provide security at the local level (Avant & Haufler, 2012). In an era in which mining companies utilize CSR to stabilize their investment settings, firms now implement a variety of dialogue and development initiatives in an attempt to make the inherently disruptive process of industrial mining less prone to conflict and violence. However, some firms have been more successful at managing localized conflicts through community engagement than others. Explaining this variation is necessary to better understand the possibilities, limitations, and tensions that arise when profit-seeking actors are tasked with providing the public good of security.

While MNCs are not security organizations *per se*, global governance scholars regard them as crucial agents of peace and conflict management in contemporary global politics (Krasner & Risse, 2014; Risse, 2011; Avant et al., 2010; Banfield et al., 2005; Haufler, 2001). In the security realm, they exercise capacity-based governing authority due to the resources they possess, and the perception that they are organizationally competent agents (Haufler, 2010). The nature of their authority has thereby prompted me to address a lacuna within the nascent literature on private governance and resource-based violence: a comparative analysis of MNCs' marginal effect on local level security provision.

This dissertation has made both substantive and methodological contributions to

the literature. First, mining-related social conflicts present scholars with puzzling cases for empirically assessing the efficacy of CSG. Logical deduction suggests large multinational mining companies that are advanced in their uptake of CSR should be relatively proactive and effective at managing localized conflicts that emerge as a result of their business activities. *Ceteris paribus*, mining companies are more likely than corporations from other sectors (e.g. technology, manufacturing, and retail) to engage in security governance due to the sunk costs and asset specificity associated with large-scale resource extraction projects. Simply put, they cannot easily exercise the exit option when their operations are affected by, or become the source of conflict and violence. More importantly, they have strong material incentives to reduce security risks given the immense financial losses that can accrue due to project delays and suspensions, and the damaging reputational impacts that can result. Lastly, social conflicts typically involve manifestations of physical violence that are relatively small in magnitude, temporally and spatially bound, and causally proximate to business activities (unlike armed civil conflicts). This type of conflict thereby falls directly within mining companies' security governing ambit. Yet, as the empirical cases demonstrate, companies claiming to be socially responsible have run the gamut in terms of their ability to manage political contention surrounding large-scale resource extraction project.

Second, empirical research on the efficacy of CSG has suffered from methodological flaws. The few studies that have been conducted on this subject have selected cases from dramatically different national, institutional, and conflict contexts, making causal analysis through comparison problematic (Honke & Thauer, 2014; Rosenau et al., 2009). Failure to control for conflict baselines and confounding variables, such as

institutions, regulatory regimes, history, and political culture, has made it difficult to precisely trace the marginal effect of MNC activities. In order to overcome this problem, I have adopted a more systematic approach to case selection. While Peru has experienced an upsurge in violent social conflict in relation to its mining sector in recent decades, this middle-income developing country was selected because it enabled me to conduct controlled within-nation comparisons across heterogeneous subnational cases. By structuring my empirical analysis around subnational cases drawn from a single country, I have been better able to theorize and evaluate local level effects of corporate activities intended to provide security.

Finally, this project has contributed to the literature by providing a more comprehensive explanation of local level security governance outcomes. Existing studies have either neglected to consider how the socio-economic and politico-institutional environment within which firms are embedded influence conflict trajectories (Triscritti, 2014; Rees et al., 2012; Rees, 2009), or black-boxed the firm, treating it as a unitary actor that rationally responds to external environmental dynamics (Honke & Thauer, 2014; Roseneau et al., 2009). Using an analytical framework that focused on baseline social conflict risks and the organizational politics of security provision, I argued that variation in MNCs' marginal effect is best explained by analyzing the risks generated by the political economies of contention external to them, and the intra-organizational politics that determine their security outputs towards civil society. Even within host countries, companies may operate in dramatically different local contexts. Those operating in regions characterized by chronic poverty, ineffective and/or corrupt local authorities and bureaucracies, and intense and unrestrained electoral competition will confront a more

challenging baseline security situation that not only generates higher generic social conflict risks, but is also more likely to usher specific grievances involving industrial mining activities towards violent escalation.

Nevertheless, MNCs exercise agency over conflict outcomes. While most mining majors have adopted the basic tenets of CSR, not all firms apply them with equal commitment and rigor in host communities. Variation in the efficacy of community engagement can also derive from intra-firm factors. Despite a public/formal preference for socially responsible security governance strategies, organizational inertia and/or resistance may exist within firms with respect to their implementation. Specifically, companies characterized by traditional organizational cultures are less likely to be effective security governors due to the marginalized status their community relations/CSR departments occupy. Companies that do not allow these departments to influence the process of conflict prevention and management are more likely to implement heterogeneous security strategies that ultimately undermine their legitimacy as socially responsible agents. Hence, effective security governance is as much an inward-facing phenomenon as it is outward-facing.

7.1.2 The cases

Chapters 4, 5, and 6 comprised the primary empirical sections of the dissertation, analyzing social conflicts involving the operations of four different multinational mining companies (Minera Yanacocha, Barrick, BHP-Billiton, and GlencoreXstrata) in three different regions (Cajamarca, Ancash, and Cusco). Following the logic of a most similar systems design, these cases were presented as paired comparisons intended to isolate firms' marginal effects by controlling for the political economies of contention within which they

were embedded. As Chapters 4 and 5 demonstrated, Minera Yanacocha's and Barrick's respective gold mines exhibit similar technical operational features (e.g., open-pit, cyanide heap leaching projects), are located at medium-high elevations (2000-5000 masl), and generate similar environmental risks/impacts (e.g., vast territorial transformations, displacement, water consumption), yet social conflict and violence have been a more common and problematic feature of the former's operations. Chapter 6 utilized the leverage afforded by temporal variation in ownership of the Tintaya copper mine located in southern Cusco region to examine firms' effects. Again, by holding constant the region's political economy of contention, the project's operational features, elevation, and impacts, I was able to examine the differential impacts of BHP-Billiton and GlencoreXstrata's community engagement activities on social conflict, with the former demonstrating a penchant for more effective conflict management. As the cases illustrate, multinational mining companies may respond in dramatically different ways to the social conflicts triggered by their activities. Some are more willing and able to expand the scope and frequency of dialogue and development thereby reducing prospects for violent escalation, while others continue to rely on coercion and cooptation despite their socially responsible rhetoric, making violent escalation a higher probability outcome.

7.2.1 Overarching findings: failing to achieve sustainable, positive peace

Publicly, multinational mining companies often downplay their causal role in conflict onset and escalation, as well as their roles and responsibilities in the realm of conflict prevention and mediation. However, as this dissertation demonstrates, for better or worse, MNCs have a salient effect on local level security outcomes. Corporate behaviour may not only trigger social conflict outbreaks, but also influence their

trajectories. By constraining opportunities for transparent, fair, and broad-based dialogue and development, companies may increase the risk that otherwise latent grievances will escalate into violent protest, wherein human rights abuses, repression, and/or the politicization of hostilities result. However, companies may also channel grievances through deliberative fora that not only resolve specific disputes in a peaceful manner, but also help to foster trust and security governing legitimacy, making future conflicts less likely to occur, much less escalate. Despite observing variation in MNCs' security governing efficacy, this dissertation discovered several commonalities among all the MNCs examined, suggesting global governance scholars should reflect further on the tensions and limitations that arise when profit-seeking actors engage in *de facto* public goods provision.

First, even among the more effective and ostensibly responsible MNCs examined (e.g., Barrick and BHP-Billiton), CSG has been a reactionary and crisis-driven exercise intended to impose an end to conflicts as they emerge (i.e., containment strategy). Rather than pre-emptive strategy directed at root causes/permissive conditions, community engagement often resembles a complex practice of “extinguishing fires.”¹⁸³ As a result, this newly adopted CSG strategy has had, at best, short- and medium-term security impacts, all the while ensuring the persistence of conflict (and the threat of renewed violence) in the long run. While the implementation of community engagement is an undeniably progressive step for the global mining industry, its effects have fallen short of the goal of sustainable, positive peace. According to Galtung (1969), “negative peace” refers to a

¹⁸³ In fact, during my fieldwork several academics, NGO representatives, community members, and even some community relations staff from mining companies invoked the *firefighting* metaphor to describe corporate efforts to manage social conflicts.

situation in which the absence of violence is due to the threat of coercion or legal sanction. By contrast, “positive peace” refers to a situation in which the absence of violence is due to actions taken by social actors to remove the preconditions for violent conflict. In the global mining sector, Bond (2014) argues that sustainable, positive peace can be achieved if mining companies engage in capacity- and institution-building exercises that resolve not only the proximate causes of social conflict and violence, but more importantly, their structural causes. In this regard, the peacebuilding literature within the field of international relations is instructive for assessing the inherent limitations of companies’ existing efforts to govern security.

International relations scholars conceptualize peacebuilding as the array of activities state agents, IGOs, and NGOs take to mitigate violent and non-violent forms of conflict. While multiple definitions exist, peacebuilding generally refers to those activities designed to prevent conflict through addressing structural and proximate causes of violence, promoting sustainable peace, delegitimizing violence as a dispute resolution strategy, building capacity within society to peacefully manage disputes, and reducing vulnerability to triggers that may spark violence (Blum, 2011: 2).

Social conflicts are highly complex phenomena, the product of multiple convergent factors at various levels of the international system, some of which may be beyond the scope of individual firms to address. However, in practice mining companies have articulated a very narrow conceptualization of their conflict prevention responsibilities via community engagement. To date, their activities have focused primarily on conflict triggers directly attributable to their behaviour, such as socio-environmental impacts, human rights abuses by subcontractors, and community relations. In the Peruvian highland regions examined in this dissertation, social conflict has been predisposed by factors that, while beyond the immediate behaviour/activities of firms, are nevertheless within their organizational

capacity and expertise to address, such as the poor performance of subnational governments. As the empirical chapters demonstrated, in Peru revenue decentralization has not been accompanied by the concomitant strengthening of local bureaucracies' capacity to manage and invest resource rents (Bland & Chirinos, 2014; Ponce & McClintock, 2014; Hinojosa, 2011). As a result, many local authorities and civil servants have not only failed to realize the sustainable development and poverty reduction mandate of the country's canon minero tax transfers, but their generally poor performance records have contributed to higher overall levels of societal discontent, making social conflict a more likely feature of local politics to begin with, let alone mineral extraction.

Drawing upon Doyle & Sambanis' (2016) conceptualization of peacebuilding, Honke (2014: 177) argues that the degree to which mining companies engage in institution-building is "crucial for...evaluating the business for peace agenda in relation to extractive industries." However, as the cases demonstrate, MNCs rarely, if ever, participate in institution-building initiatives designed to address the local level factors that predispose political economies of contention to situations of social conflict; namely, strengthening the performance capacity of local governments. While representatives from all of the MNCs examined in this dissertation openly recognized the problems that weak and ineffective subnational governments have created for their operations, they were hesitant to expand the scope of community engagement activities to include capacity-building initiatives for regional, provincial, and/or district level civil servants and authorities. Even one of the more responsible and effective MNCs examined in this dissertation was dismissive of this form of institution-building. While Barrick Gold Corporation has publicly acknowledged that local governments' capacity to manage canon minero revenues is a crucial determinant

of the perceptions local stakeholders have of mining operations (Barrick, 2013), MBM's Manager of Community Relations openly rejected the notion that mining companies in Peru ought to participate in initiatives designed to help equip civil servants with the technical skills, knowledge, and management systems required to operate more effectively:

That would be an activity that ultimately doesn't correspond to us as a company. It's a responsibility that belongs to the population; *they* are the ones that have to make sure authorities are doing the right thing [with the money]. How far should we as a company have to go? While we try to be a responsible corporate citizen, our responsibilities aren't limitless.¹⁸⁴

While it is understandable that some corporate executives may not want to stray too far from what they view as their company's *raison d'être*, technical training for civil servants would be an activity that is within MNCs' domain of expertise. For instance, multinational mining companies have accumulated substantial proficiency in activities such as stakeholder mapping, social and economic baseline assessments, infrastructure development, and other forms of long-term social planning, and could thereby participate in technical knowledge transfer initiatives with local governments, as they must conduct similar needs-based assessments and planning exercises to effectively reduce poverty and promote sustainable development in their jurisdictions. Such activities would be relatively low cost when compared to the financial costs of conflict (see Franks & Davis, 2016; Franks et al., 2014). What's more, they would not only make a direct contribution to poverty reduction and sustainable development by ensuring tax revenues benefit the most vulnerable, but would also serve to reduce general disillusionment with local government performance in mineral rich regions. However, MNCs have vehemently eschewed such activities, even though they represent activities that could help to achieve sustainable,

¹⁸⁴ Interview 08/05/2014, translated.

positive peace.

Second, the areas of influence that structure the boundaries of community engagement are seldom accurate reflections of the spatial magnitude and temporal scale of the impacts of open-pit mining (Gamau & Dauvergne, 2016). This is particularly true for projects located in environmentally sensitive areas, such as highland water reservoirs and glacier-fed headwaters as is common with industrial mining operations in the Peruvian Andes. In order to obtain legal licences to operate companies have incentives to downplay the risks and impacts during the EIA approval process, the effect of which is an artificial attenuation of the circumference of projects' areas of direct influence. What's more, in developing countries seeking to attract mining FDI, regulatory frameworks and institutions have granted MNCs substantial autonomy in defining the contours of stakeholder groups (see Chapter 3). However, when mining companies have exclusive authority to define which groups are directly impacted – and by extension, eligible for social investments, employment, and other forms of compensatory financing – the potential for conflict will be elevated as a result of the distributional asymmetries that invariably emerge. As profit-seeking actors, MNCs will inherently prefer to work with a limited number of communities whom they identify as legitimate stakeholders (Newell, 2005).

This issue highlights a structural limitation in MNCs' ability to achieve sustainable, positive peace: corporate decisions regarding the allocation of funds and activities for community engagement will be constrained by the profit motive and/or desire to minimize material operating costs, particularly those deemed peripheral to core business activities. While companies may have the financial ability, they have remained strategically unwilling to accede to a more representative delineation of stakeholders – even though it would serve

to reduce the frequency and intensity of conflicts at their operations. Ironically, companies openly acknowledge that the grievances of indirect stakeholder communities underlay most outbreaks of social conflict.¹⁸⁵ These communities are often said to initiate conflicts in order to “blackmail” companies into providing them with social investments. Rarely, however, do company officials acknowledge their legitimate environmental and livelihood concerns. Yet, as Franks et al. (2014) have observed, social conflicts are means through which communities articulate perceptions of risk, and as the Conga and Tintaya cases starkly demonstrated, indirect stakeholders confront high risks due to the intrinsically diffuse negative impacts open-pit operations have on water and land – livelihood resources in the Peruvian Andes that are critical for peasant and indigenous groups. What’s more, these groups can be mobilized by entrepreneurial political elites utilizing environmental frames, sometimes with violent effect and with dire financial and reputational costs for companies (e.g., Conga). Still, companies have remained stubbornly steadfast that their areas of influence accurately reflect the scope of risks and impacts, and thereby the communities to whom they ought to be accountable.

MNCs could pre-empt some of the conflict inducing effects that emerge from a narrowly defined area of direct influence by agreeing to greater third-party oversight during the EIA approval process. In Peru, no formal governance mechanism exists to ensure EIAs are submitted having consulted a representative cross-section of affected communities. However, social licenses are more likely to endure, and conflict less likely to emerge, if

¹⁸⁵ Interview, 28/04/2014; interview, 08/05/2014; interview 26/05/2014; interview, 06/08/2014; interview, 04/10/2014; interview 11/10/2014; interview, 05/10/2014.

companies facilitate engagements with stakeholder communities in a procedurally fair¹⁸⁶ manner (Moffatt & Zhang, 2014). As it stands, the “public audiences” that occur during this phase often resemble a series of one-sided information sessions, with companies dictating who can and cannot attend, rather than a robust deliberation that facilitates mutual agreement of the scope of impacts, and generates informed and broad-based consent among a representative cross-section all those who are likely to be affected. Since companies are unlikely to expand their area of direct influence unilaterally, institutionalized NGO involvement/oversight is required to ensure that impacts and stakeholders are more accurately defined at the earliest possible stage. NGO involvement/oversight would help to minimize the power and informational advantages companies have during this process. Not only would this have the effect of reducing distributional asymmetries between direct and indirect stakeholders, thereby reducing conflict likelihoods, it would also enhance the legitimacy of EIAs and projects themselves, making it less likely that entrepreneurial political elites will question the validity of the means companies have used to obtain social operating licenses.

Finally, history conditions the possibilities and limitations of MNCs’ contemporary security governance activities. While companies may now implement community engagement in accordance with the highest voluntary international standards (e.g., IFC Performance Standards, OECD Guidelines for Multinational Enterprises, Voluntary Principles on Security and Human rights, etc.), their effect may nevertheless remain limited due to a lack of trust in the company. Trust refers to the assurances that an actor’s

¹⁸⁶ Procedural fairness refers to decision-making rules, regulations, and institutions that individuals or groups perceive as just, and that facilitate active participation and voice.

behaviour will meet the expectations of an addressed group (Lewicki et al., 1998) and involves reasonable guarantees the actor will not exploit their vulnerabilities (Kramer & Carnevale, 2011). According to Moffat & Zhang (2014), the trust stakeholder communities exhibit towards mining companies derives fundamentally from their ability to mitigate adverse operational impacts (e.g., social, environmental, economic), while ensuring frequent and high quality deliberative interactions. Trust is thereby a socially constructed feature of the iterative exchanges between communities and MNCs.

Early deceptions with respect to land purchases, unmitigated and/or uncompensated environmental damages, unfulfilled promises of employment, or human rights violations during community relocations can have dire long-term implications for MNCs. Initial interactions (positive or negative) invariably reverberate over time to influence MNCs' marginal effect on contemporary social conflict prevention and management. As all the cases demonstrated, legacy issues have been particularly salient for operations that commenced prior to the global diffusion of socially responsible business norms (i.e., pre-2000), when behavioural guidelines, best-practices, and community relations/CSR teams did not exist. History shapes the current perceptions affected communities have of MNCs as governing agents, while acting as a heuristic device to predict their responses to crisis periods. Whether or not these perceptions and expectations are empirically accurate is often inconsequential for aggrieved communities; for vulnerable peasant and indigenous groups especially, history is the best teacher. In this regard Jose De Echave, director of CooperAcción, aptly remarked of the 2011-2012 Conga crisis: "This was a case of accumulated impacts. It wasn't just a conflict about the project itself, but a conflict over

20 years of tremendously complicated relations.”¹⁸⁷ More than any other, this case demonstrated with violent effect that MNCs with poor socio-environmental performance records and those that have relied heavily upon coercion and cooptation can have immense difficulty convincing stakeholders of their contemporary commitment to peaceful deliberation.

History matters for the efficacy of contemporary CSG, but companies need not remain fatalistic about the past; trust can be constructed even within challenging historical circumstances. For instance, under the ownership of BHP-Billiton, Tintaya was able to surmount the poor socio-environmental reputation the operation had garnered under state ownership through early interventions to establish multi-stakeholder dialogue. The Tintaya Dialogue Table provided a costly and credible signal to affected communities that the company was committed to a conflict resolution mechanism that would be procedurally fair, actively promote community voice, and ensure joint environmental monitoring initiatives. This reaction to the first major outbreak of conflict under the company’s tenure served to construct the foundation of trust and governing legitimacy.

If legitimacy is the *sine qua non* of effective non-state service provision (Krasner & Risse, 2014), then the historical evolution of trust is crucial for understanding divergences in security governing efficacy across cases. For the stakeholder communities examined in this project, the sincerity with which MNCs were believed to engage in conflict management (and thus the ferocity of social resistance during crisis periods) could not be divorced from their previous interactions with the corporate agent. Legitimacy is not exogenously given, but endogenous to community-firm relations over a project’s

¹⁸⁷ Interview 31/07/2014, translated.

lifespan. As a variable that is in constant flux, analyses of security governing efficacy at any given moment should take into consideration preceding events and interactions in order to contextualize output legitimacy.

7.3.1 CSR as a governance tool in a neoliberal era: for whom and what purpose?

While states remain the dominant actors in the post-Cold War international system, in areas of limited statehood the locus of governing power and authority has increasingly shifted into the hands of transnational non-state actors. In many developing countries the transferral of state-like functions to MNCs has been undergirded by the broader process of neoliberal economic globalization.¹⁸⁸ As discussed in Chapter 3, throughout the 1980s and 1990s IFIs proposed developing countries reduce severe indebtedness through a series of sweeping, yet standard macroeconomic reforms that included: the deregulation of markets; privatization of state-owned enterprises; liberalization of trade and investment policies; creation of competitive exchange rates; tax reform; removal of state subsidies; and controversially, fiscal austerity measures designed to rapidly reduce budget deficits, often

¹⁸⁸ Drawing upon the work of Michel Foucault, Lemke (2001: 197) describes its philosophical roots as embodied in the “radical form” of neoliberalism of the Chicago School: “[T]he key element in the Chicago School’s approach is their consistent expansion of the economic form to apply to the social sphere, thus eliding any difference between the economy and the social. In the process, they transpose economic analytical schemata and criteria for economic decision making onto spheres which are not, or certainly not exclusively, economic areas, or indeed stand out for differing from any economic rationality. Whereas the [post-war] liberals in West Germany pursued the idea of governing society in the name of the economy, the US neo-liberals attempt to re-define the social sphere as a form of the economic domain. The model of rational-economic action serves as a principle for justifying and limiting governmental action, in which context government itself becomes a sort of enterprise whose task it is to universalize competition and invent market-shaped systems of action for individuals, groups and institutions”.

times by shrinking the state's social welfare infrastructure. In mineral-rich developing countries, structural adjustment also involved mining sector reforms intended to establish regulatory frameworks and institutions amenable to the interests of FDI.

While liberalization policies resulted in the largest ever shift in mining investments to the developing world (Bridge, 2004), in many cases they also drove down social, environmental, and development standards, while diminishing the administrative and institutional capacity of the state in society (Campbell, 2008). Not only did these policies further entrench the structural power of transnational capital over the state, it amplified MNCs' power over civil society by removing the state as a regulatory agent capable of mediating interactions between mining companies and civil society, a process Szablowski (2007) has described as "selective absence".

CSG is indicative of a broader set of political rationalities and power relationships embodied in neoliberalism that highlight the tensions and limitations inherent in purely private forms of governance. As discussed in the introductory chapter, community engagement has emerged as a mechanism of service provision in response to the proliferation of CSR norms for governing the behaviour of MNCs. While CSR within the global mining industry represents a behavioural improvement for an industry that has historically eschewed its social, environmental, and human rights impacts, as a method of self-regulation it remains highly controversial. Important questions linger as to whose interests are best served by the activities of socially responsible MNCs and for what purpose, along with CSR's capacity to deliver justice and accountability to vulnerable populations impacted by corporate activities (Dauvergne & Lister, 2012). Additionally, little is known of the effects that the private provision of public goods will have on long

term development of state institutions in the developing world. In resource-rich developing countries wherein central governments have “absented” themselves from their regulatory roles and service provision functions, CSR provides only temporary reprieve from governance and public goods deficits, without addressing the ability of state institutions to effectively refill those gaps once mineral deposits are exploited and companies leave.

CSR is indicative of the “contested terrain” of contemporary global governance, exhibiting elements of both public accountability and unaccountable private power. It embodies the conflict and compromise between private capital, states, and global civil society (Levy & Kaplan, 2007; Levy & Prakash, 2003), rather than an optimal response to a substantive problem (Abbott & Snidal, 2000). Some view it an attempt to re-embed the market within the social domain, or as an enlightened form of business that seeks to mitigate and rectify the negative externalities associated with free market activities (Polanyi, 1944: 57). Constructivist analyses have depicted MNCs not as utilitarian, profit-maximizers *per se*, but as actors whose behaviour can be influenced by norms (Ruggie, 2013; Dashwood, 2012; Bernstein & Cashore, 2007). Within this framework, MNCs may self-regulate and engage in the provision public goods not only for the material benefits that may be conferred, but also because such activities are regarded by individual executives and employees as “the right thing to do.” From this perspective, private governance may exhibit a potential for accountability to the needs and interests of global civil society. As actors whose identities are constructed in part by global norms, MNCs will attempt to mitigate adverse impacts and whenever possible promote the social good due to the cognitive dissonance that may result from transgressions of now widely accepted behavioural expectations. What’s more, the internalization of CSR norms by a critical mass

of global actors such as IGOs, IFIs, home country governments, and institutional investors suggests that the failure to adhere to its tenets may result in material sanctions, such as the loss of investment capital for future ventures or crucial institutional investors (e.g., sovereign wealth funds). As a result, MNCs have social incentives to operate in accordance with the highest international social, environmental, and human rights standards – many of which are higher than the standards embodied in the regulatory frameworks of developing country governments, allaying fears that neoliberalism invariably generates incentives for a “race to the bottom”.

However, at the organizational level CSR is less a reflection of normative action as it is of competitive considerations. Stripped of its “feel-good” rhetoric, CSR is a corporate strategy to enhance efficiencies and reputations, reduce risks, control supply chains, grow operations, increase profit margins, and fundamentally, avoid government regulation (Dauvergne, 2016; Petras & Veltmeyer, 2015; Wright & Nyberg, 2015; Dauvergne & Lister, 2013; Newell & Frynas, 2007; Newell, 2005; Banerjee, 2003; Matten et al., 2003). Within the global mining industry, which deals with highly destructive and politically contentious business activities, it is a mechanism through which companies can obtain and maintain social licenses to operate, and access increasingly scarce, but highly lucrative natural resources. The cost-benefit calculations driving the implementation of CSR activities suggest it has limited capacity to promote public accountability in the absence of immediate material returns. When understood from this perspective, it becomes increasingly evident why community engagement has achieved, at best, only modest, short- and medium-term security benefits while failing to generate incentives for MNCs to create conditions for sustainable, positive peace. Companies have eschewed more robust security

governing activities as they may be deemed too costly, or worse, as creating potentially dangerous precedents that the industry as a whole seeks to avoid.¹⁸⁹

Given the obvious material benefits reaped by MNCs, CSR's effects at both the local and global level may more be pernicious than is typically depicted by business and management scholars. From a critical political economy perspective, CSR is an expression of *hegemony* – it is an ideological accommodation on behalf of private capital that serves to legitimate and reproduce the dominant economic order, entrench corporate power over states and civil society, and coopt potential detractors (e.g., NGOs, TANs, and local communities). According to Cox (1983: 171-172),

[h]egemony at the international level is...not merely an order among states. It is an order within a world economy with a dominant mode of production which penetrates into all countries and links into other subordinate modes of production. It is also a complex of international social relationships which connect the social classes of the different countries. World hegemony is describable as a social structure, an economic structure, and a political structure; and it cannot be simply one of these things but must be all three. World hegemony, furthermore, is expressed in universal norms, institutions and mechanisms which lay down rules of behaviour for states and for those forces of civil society that act across national boundaries – rules which support the dominant mode of production.

Thus, CSR, as it is currently manifested in various international voluntary codes of conduct and diverse local level “sustainable development” initiatives, also represents a strategic concession on behalf of private capital aimed at preventing systemic critiques of neoliberalism and resistance to socially and environmentally destructive industrial activities. As Levy & Kaplan (2007: 19-20) observe, “CSR can achieve this hegemonic

¹⁸⁹ For instance, in a surprising revelation BHP-Billiton's former Director of Social and Institutional Relations noted that other companies expressed concern with its decision to participate in the Tintaya Dialogue Table; the robustness of its response to social conflict in Espinar was viewed as setting a community engagement precedent that other companies did not want to adhere to at the time. Interview, 06/08/2014.

status precisely because...business agrees to concessions that modify corporate practices at the margin, but which do not challenge the fundamentals of...market rationality.” Put differently, CSR has only modestly changed the rules of the game (i.e., how resources are exploited and products are produced), but not the game itself (i.e., a growth-based economic model premised on constant expansion into the periphery) (Dauvergne & Lister, 2012).

For instance, within the global mining industry CSR has produced some notable modifications to industry practices (e.g., transparency, conflict sensitivity, sustainable resource management), while leaving untouched many of the core threats open-pit mining operations pose to vulnerable populations (Gamu & Dauvergne, 2016). Although community engagement can enable MNCs to more directly manage social conflict and promote a more benign image for firms and the industry as a whole, by design it does not address the existential threats inherent to industrial-scale resource extraction, such as the dramatic transformation of landscapes, the invariable degradation of life-sustaining resources, and the splintering of traditional social institutions.

The concept of *slow violence* is useful for illustrating the hegemonic effects of CSR in this industry. Nixon (2011: 2) defines slow violence as that which “occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all.” It is, he continues, “a different kind of violence, a violence that is neither spectacular nor instantaneous, but rather incremental and accretive, its calamitous repercussions playing out across a range of temporal scales.” Slow violence in the Peruvian highland regions examined in this dissertation has manifested itself in many forms, most notably the depletion of fresh water,

the release of industrial effluents into groundwater and soils, and the displacement of rural communities. From this perspective, the most socially responsible activity mining companies could undertake is to declare a complete moratorium on operating in environmentally fragile and socially vulnerable regions. However, this is unlikely to occur. Thus, CSR and community engagement can also be understood as a mechanism of manufacturing consent among affected communities and global civil society more generally for destructive industrial activities in peripheral areas.

Finally, in areas of limited statehood purely private forms of governance can undermine the long term development of state regulatory functions and its capacity to provide public goods to populations at the peripheries of government control. As Szablowski (2007) argues, states in mineral-rich developing countries have “absented” themselves from key functions in order to attract mining FDI, relying instead on CSR to fill the regulatory void. What’s more, with the expansion of the extractive frontier, industrial mining operations now take place in geographically remote regions wherein local communities have historically had minimal interaction with the state and access to public goods crucial for individual and collective well-being. As a result, multinational mining companies have frequently come to adopt *de facto* state-like roles. However, while MNCs may fill regulatory and public goods vacuums over the lifespan of their operations (a period of multiple decades in the case of industrial mining), the existence of socially responsible mining companies can create perverse incentives for states that ultimately undermine their long-term institutional development.

The long-term developmental effects of CSR on state functions in the developing world can be understood as a form of *moral hazard*. Moral hazard refers to an

institutionalized incentive an actor has to behave in a risky manner when they are protected against risk by another party.¹⁹⁰ With respect to CSR and state development, the presence of mining companies willing to perform regulatory and service provision functions generates incentives at the present for central governments in areas of limited statehood not to develop the institutional capacity to robustly govern and provide public goods given that private actors are willing to self-regulate and expand the frontiers of public goods provision into peripheral areas. While this may be a rational as it reduces financial and organizational costs for resource-poor central governments in the short- and medium-term, this strategy is ultimately highly risky in the long-term. Though socially responsible mining companies may assume state functions for a period of decades given the time frames associated with their activities, they will eventually cease to do so when deposits are exploited, or, temporarily suspend programs during bust periods (i.e., the cyclical nature of commodity markets can generate ebbs and flows in the private provision of public goods). In this regard, CSR can reduce the likelihood host governments will prioritize the geographic and sectoral expansion/consolidation of statehood.

7.4.1 Avenues for future research:

Below I propose some promising areas for future research that can enhance our understanding of security governance in the global extractive industries.

First, the primary methodological contribution of this project has been the application of the subnational comparative method. This systematic approach to case

¹⁹⁰ For example, while individuals may purchase car insurance to protect themselves and their property in the event of a car accident, the act of purchasing car insurance creates a perverse incentive to drive in a riskier manner than would have been the case if the individual had not purchased the insurance from a second party willing cover the financial costs of an accident.

selection enabled me to control for confounding factors when theorizing and measuring the efficacy of local level security governance. However, this method is limited in terms of its ability to produce generalizable findings. As such, future research could seek to test my findings in light of the population of cases by examining mining companies' security governance efforts during social conflicts from other resource-rich developing countries. All of the companies examined in this project operate mines in other parts of the global South. For example, Barrick Gold Corporation operates the Pueblo Viejo and Porgera mines in the Dominican Republic and Papua New Guinea respectively, while Newmont Mining Corporation operates the Batu Hijau and Ahafo/Bakyem mines in Indonesia and Ghana respectively. What's more, violent social conflicts have erupted at these operations, thereby making them eligible candidates for further analysis.

Conversely, new insights could also be yielded by employing detailed, single case studies using ethnographic or undercover research methods to study firm-level responses to social conflict outbreaks from an embedded perspective. Though limited in terms of their generalizability, these methods could allow researchers to access crucial insider information that could not otherwise be obtained through other data collection methods.

While I was able to conduct formal interviews with multiple company informants, a few practical limitations may have prevented me from obtaining the most candid information through this method. First, since the primary conflict outbreak events under consideration occurred two years prior to my fieldwork, informants may not have been able to fully recount specific company actions and responses. Second, while companies have increasingly made themselves available to academic researchers from the social sciences, our activities are still viewed with a degree of suspicion among many employees who fear

the knowledge produced will be used to depict the industry in a poor light. Consequently, staff and executives commonly reiterate standard public positions and non-controversial information, such as the material contained within publicly available CSR reports. Finally, and most importantly, given the highly sensitive nature of the research topic, informants with crucial first-hand knowledge of the decision-making processes surrounding social conflict management – specifically community relations/CSR staff and consultants – may be bound by non-disclosure agreements that make it illegal and highly risky for them to fully divulge what they know.

As such, detailed single case studies that employ ethnographic or undercover research methods could overcome some of these practical limitations of interview research, and thereby produce new insights, research questions, and/or hypotheses that could be used to refine or further validate the evidence contained within this project. Through real time participant observation, researchers may be able to more comprehensively analyze the intra-firm politics of security governance and how mining companies structure their strategic responses to social conflict outbreaks. Ethnographic research methods have been usefully employed to study the internal politics and pathologies of IGOs (Barnett & Finnemore, 2004; Barnett & Finnemore, 1999), and thus could be potentially fruitful when utilized to study the role MNCs as governing agents as well. Despite the potentially unprecedented access political scientists could gain through embedded research, these methods may also involve important ethical trade-offs, as the knowledge produced may be subject to proprietary ownership claims by mining companies (Coumans, 2011). Nevertheless, greater discussion among scholars interested in the role of MNCs as security governing agents in areas of limited statehood is warranted on the pros and cons associated

with this type of research.

Second, the case studies selected for this project occurred within the context of a global commodity super-cycle that commenced in 2001 and lasted until approximately 2011/2012. This a period of sustained high mineral prices not only increased the intensity and extensity of industrial mining activities in the developing world (hence partially accounting for the absolute increase in conflict globally), but also provided companies with unprecedented financial resources to devote towards non-core activities, such as community engagement. However, since 2012 important questions remain as to what precise effects the global commodity downturn will have social conflict dynamics at the local level. One line of thinking suggests the contraction of the industry could lead to an absolute decrease in the number of conflicts as the intensity and extensity of extraction reduce in response; however, another suggests that conflicts may increase as investment opportunities dry up, governments receive fewer rents, job losses accrue, and fewer discretionary finances are available for companies to invest in local poverty reduction and sustainable development initiatives (Le Billon & Good, 2016).

In this regard, it remains unclear as to whether companies will continue to devote sufficient financial resources to community engagement in order to manage the local effects that rapidly changing international market conditions have on stakeholder communities. Conflict risks may be particularly high within the context of enclave economies, as local communities become dependent on a single economic activity for livelihood production and are thereby less resilient to the effects of the downturn. Future studies could therefore utilize the boom and bust periods as a source of temporal variation to examine the local level effects that global commodity prices have on companies' usage

of community engagement. Like this dissertation's research design, such a project could utilize the inferential leverage afforded by the subnational comparative method by examining conflict at a single operation and examining the responses of a single company, with boom and bust periods as the source of variation. Furthermore, such a project could prove invaluable by generating new critical insights into the limits of MNCs capacity-based authority, as abundant financial resources lay at the heart of their ability to act as security governors.

Third, civil society's capacity to influence corporate behaviour through boycotts and transnational advocacy campaigns has long been a subject of study within international relations (Haufler, 2010; McAteer & Pulver, 2009; Wapner, 1995), however, few studies have specifically examined whether new market-based mechanisms of consumer governance, such as transparency and traceability initiatives, have been demonstrably effective mechanisms for influencing the behaviour of multinational mining companies in the areas of environmental sustainability, human rights, and conflict. For example, section 1502 of the 2010 U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act requires U.S. companies to disclose whether any of the materials directly used in, or contracted to construct their products contains minerals originating from within the civil war-torn DRC or the 9 countries that share its borders.¹⁹¹ Additionally, the World Gold Council has recently created its "Conflict-Free Gold Standard" for member companies, while the Initiative for Responsible Mining Assurance is developing a third-party labelling system for jewellery retailers. With jewellery accounting for approximately 80% of gold

¹⁹¹ Angola, Burundi, Central African Republic, Republic of Congo, Rwanda, South Sudan, Tanzania, Uganda, and Zambia.

extracted, environmental and human rights advocates contend that consumers can exercise considerable leverage over industry practices through their power of purchase/boycott.

Transparency and traceability are now viewed as powerful tools of social and environmental governance as they can provide consumers with information on the origins of the products they purchase, which can help them to distinguish between socially responsible and irresponsible brands. What's more, companies also recognize the benefits of participating in product labelling initiatives; simply claiming to have a conflict-free supply chain can enable companies to capture greater market share. However, it is not yet known under what conditions transparency and traceability schemes can effectively influence the behaviour of multinational mining companies involved in social conflict, if they can at all.

With respect to the global extractive industries, research on transparency, traceability, and consumer choice has focused primarily on the emblematic case of the Kimberly Process Certification Scheme, which was developed in 2003 as an international multi-stakeholder initiative to stem the flow of so-called "blood diamonds" used to finance rebel groups involved in large-scale armed conflict (Haufler, 2016; Haufler, 2009; Le Billon, 2008; Le Billon, 2001). However, given the rarity of civil war as an empirical phenomenon associated with extractive industries, a more rigorous test of the efficacy of transparency, traceability, and consumer choice as conflict governance mechanism should focus on social conflict. This would also allow scholars to study the effects of supply-chain governance mechanisms across a range of mineral commodity types, as recent empirical research has shown that all minerals (e.g., precious metals, ferrous and non-ferrous minerals, etc.) to be associated with localized social conflict and violence (Haslam

& Tanimoune, 2016), whereas only a few high value, low weight mineral commodities may be associated with large-scale civil conflict.

However, we should not assume *ex ante* that transparency and traceability initiatives can have similar effects on corporate behaviour across commodity types and extractive sectors (i.e., mining, oil, gas). First, the inherent properties and uses of specific minerals may condition the efficacy transparency and traceability initiatives. Consumers may be able to more effectively utilize their purchasing power to exercise leverage over corporate behaviour for precious metals and gemstones associated with civil conflict, as these commodities are involved in jewellery production, and thereby highly visible to the consumers at the point of purchase. However, many other mineral products associated with localized social conflict and violence are not immediately visible to the average end user despite the prevalent position they occupy in their daily lives. Few may be aware of the gold, silver, aluminum, tungsten, lead, and cobalt used in their electronic devices and cars, or the copper wiring and tubes running throughout their homes and workplaces. Second, brand recognition may also condition the degree to which firms are susceptible to boycotts at the till. With the exception of a few companies directly associated with the sale of gemstones and fuel (e.g., DeBeers, Shell, Exxon), most multinational mining companies are not household names. Third, industry structures and associational networks have recently been theorized to affect the type and scope of transnational governance arrangements that emerge in response to the problem of conflict minerals (Haufler, 2015; Haufler, 2016). Many questions therefore remain as to the efficacy of non-state market driven mechanisms for governing the responsiveness of multinational mining companies to social conflict.

Finally, the domestic court systems of host countries are viewed as crucial actors in the *protect, respect, and remedy* framework of the UN Guiding Principles for Business and Human Rights. According to this framework it is the duty of states to implement appropriate policies and regulations to ensure that individuals are protected against human rights abuses by private corporations; the responsibility of corporations to respect human rights; while victims must have access both judicial and non-judicial mechanisms of remedy (Ruggie, 2013). However, in many resource-rich developing countries, states either do not have the judicial capacity to effectively adjudicate the human rights violating behaviour of multinational mining companies, or are subordinate to their interests. As a result, victims of the human rights violating behaviour of foreign companies and/or their contracted personnel have increasingly sought justice and compensation through extraterritorial judicial mechanisms failing an ability to do so at home. The jurisdictional reach of foreign courts can therefore have behavioural implications for the efficacy of MNCs' local level community engagement activities through a punitive/deterrence effect.

However, local communities' abilities to effectively utilize foreign court systems are subject numerous variables, such as the transnational alliances they have forged with international NGOs, the amount and quality of evidence of abuse, and importantly, the degree to which extraterritorial jurisdiction is institutionalized within companies' home country legal systems. For example, in the United States extraterritorial jurisdiction is formally enshrined within U.S. law under the Alien Tort Claims Act of 1789, which allows civil action to be taken against U.S. entities by foreign national for injuries committed outside the country's sovereign territory. However, in neighbouring Canada, which hosts approximately 60% of the world's publicly listed mining companies with assets valued at

\$ 215.3 billion (Bhushan & Heidrich, 2013), extraterritorial jurisdiction is not enshrined in federal law. What's more, under the leadership of former Prime Minister Stephen Harper, the Canadian federal government sought to inhibit the ability of foreign plaintiffs to use Canadian courts to seek legal redress, instead opting for a softer approach of non-legal mediation. Yet, several high profile cases have emerged in which Canadian courts tried Canadian and American companies, such as HudBay and GoldCorp for alleged abuses committed at their respective Fenix and Marlin mines in Guatemala. Recently, the Canadian Supreme court ruled that indigenous communities affected by Chevron's oil spill in the Ecuadorian Amazon could proceed with a lawsuit against the American-based oil company in Ontario since a corporate office is located in the province.

While a few emblematic cases exist, the usage of extraterritorial jurisdiction by local communities remains rare. Thus, future studies could theorize and empirically examine the combination of variables responsible for successful and unsuccessful attempts to try multinational mining companies in foreign courts. Additionally, future studies could examine the robustness with which companies manage local level conflicts at their global operations as a result of the punitive/deterrence effects of extraterritorial jurisdiction. Using a comparative research design of mining majors domiciled in the U.S. and Canada, such projects could examine the credible threats that differing degrees of the institutionalization of extraterritorial jurisdiction within legal systems have on companies' global operations. Lastly, future studies could examine whether extraterritorial jurisdiction undermines the ability of host country judicial systems to develop the institutional capacities and credibility to eventually try cases on their own. While circumventing domestic courts may be a rational short-term response for local communities due to their

institutional weakness or capture by FDI, the long-term consequences of this path to legal remedy may be problematic for domestic arbitration.

7.5.1 Final reflections

Under certain conditions industrial mining operations can contribute to national economic growth and development in the global South. However, for communities surrounding projects they almost inevitably generate profound existential uncertainties as they dramatically transform environments, alter local economies, and rupture pre-existing social structures. When few formal opportunities exist for locals to freely and fairly deliberate with companies and the state over the distribution of risks and benefits generated by these investments, social conflict can become an efficacious means for disempowered groups to express grievances and seek policy change. Yet, in countries like Peru social conflict can be costly as it heightens the risk of physical violence: entrepreneurial political elites and protest leaders may strategically escalate activities as a bargaining tactic; companies, fearing operational disruptions and economic losses, may preemptively deter protests leading to human rights abuse; and states may hastily repress and infringe upon democratic rights and freedoms in order to protect economic activities deemed to be a matter of national interest.

To be fair, multinational mining companies are today generally more aware of their roles in triggering and perpetuating social conflicts, along with their responsibility to mitigate and manage insecurity in host communities. Yet, as profit-seeking actors with lucrative financial stakes in the extraction subsoil commodities, their willingness to address the underlying and immediate causes of conflict has its limitations. Alone, the private governance initiatives constructed to “green” and “blue” the global mining sector have not,

indeed cannot, solve the drivers of violence in communities impacted by industrial mining, and over time may, in fact, contribute more to its perpetuation than cessation. Creating the conditions for sustainable, positive peace in Peru's mining sector (and other resource-rich developing countries, for that matter) will require not only an enhanced capacity for states to robustly regulate industry practices and act as unbiased mediators between private capital and civil society, but also a democratization of the development process more generally. When impacted communities have reasonable assurances their interests will be respected by states and private investors, and an ability to not only articulate, but credibly pursue their vision of development, the frequency and intensity of conflict can be reduced.

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Appendix #1: Deaths involving socially responsible firms in Peru (data modified from Global Witness, 2015)

Name	Date of death	Conflict type	Company	CSR
Efrain Ruben Arzapalo Arzapalo	26-Nov-03	Energy	Electro Andes S.A.	N/A
Reemberto Herrera Racho	21-Apr-04	Industrial Mining	Monterrico Metals	Yes
Juan Montenegro Lingan	16-Nov-04	Industrial Mining	Minera Yanacocha	Yes
Melanio Garcia Gonzales	31-Jul-05	Industrial Mining	Monterrico Metals	Yes
Mario Vargas Paredes	06-Feb-06	Natural Gas	Petroperu	Yes
Zolio Huertas Correa	07-Jul-06	Fisheries	San Martin	N/A
Isidro Llanos Chavarria	01-Aug-05	Industrial Mining	Minera Yanacocha	Yes
Edmundo Becerra Cotrina	31-Oct-06	Industrial Mining	Minera Yanacocha	Yes
Marvin Gonzales Castillo	10-April-07	Industrial Mining	Minera Barrick Misquichilca/Minera Antamina	Yes
Carlos Honorio Curitima Chuje	23-Apr-08	Natural Gas	Pluspetrol	Yes
Santos Antonio Lopez	24-Apr-08	Artisanal Mining	N/A	N/A
Doris Mendoza Paredes	15-Nov-08	Waste Management	N/A	N/A
Leonel Gaspar	16-Nov-08	Waste Management	N/A	N/A
Genaro Chijap Chamik	04-Jun-09	Natural Gas	Petroperu	Yes
Remigio Mendoza Ancalla	30-Jun-09	Industrial Mining	N/A	N/A
Wilber Huamannahui Espinoza	23-Jul-09	Industrial Mining	Shougang	Yes
Juan Pepe Mori Hoyos	14-Sept-09	Industrial Mining	Minera Consolidada de Hualgayoc	N/A
Castulo Correa Huayama	01-Dec-09	Industrial Mining	Monterrico Metals	Yes

Name	Date of death	Conflict type	Company	CSR
Vicente Romero Ramirez	01-Dec-09	Industrial Mining	Monterrico Metals	Yes
Ynilberto Hipolito Valverde	17-Mar-10	Industrial Mining	Comarsa	Yes
Leonicio Fernandez Pacheco	15-Sept-10	Irrigation	Consortio Angostura Siguas	N/A
Munante Willy Cadillo Vergara	05-Dec-10	Industrial Mining	Centauro Corporacion Minera	Yes
Andres Taype Choquepuma	03-Apr-11	Industrial Mining	Southern Copper Corporation	Yes
Nestor Cerezo Patano	06-Apr-11	Industrial Mining	Southern Copper Corporation	Yes
Aurelio Huacarpuma Clemente	06-Apr-11	Industrial Mining	Southern Copper Corporation	Yes
Brandon Andri Castillo	16-Apr-11	Industrial Mining	Buenaventura	Yes
Pablo Ordonez Marcanaupa	27-Apr-11	Industrial Mining	Compania Minera Pampamali S.A.	N/A
Raul Ccancapa Huariccallo	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Antonio Campos Huanca	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Petronilla Coa Hanca de Quispe	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Gregorio Huaman Maumi	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Felix Edwin Yrpancoa Turpo	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Javier Perlacios Limachi	23-Jun-11	Industrial Mining	Bear Creek Mining	Yes
Louis Brayjaim Jairo Bances	26-Mar-12	Natural Gas	Sechura	N/A
Luis Felipe Guerrero Garcia	26-Mar-12	Natural Gas	Sechura	N/A

Name	Date of death	Conflict type	Company	CSR
Christian Alvarado Frias	26-Mar-12	Natural Gas	Sechura	N/A
Walter Sencia Ancca	27-May-12	Industrial Mining	GlencoreXstrata	Yes
Felix Yauri Usca	27-May-12	Industrial Mining	GlencoreXstrata	Yes
Rudecindo Manuelo Puma	27-May-12	Industrial Mining	GlencoreXstrata	Yes
Paulino Leonterio Garcia Rojas	02-Jul-12	Industrial Mining	Minera Yanacocha	Yes
Joselito Faustino Silva Sanchez	02-Jul-12	Industrial Mining	Minera Yanacocha	Yes
Gilmer Cesar Medina Aguilar	02-Jul-12	Industrial Mining	Minera Yanacocha	Yes
Antonio Joselito Sanchez	02-Jul-12	Industrial Mining	Minera Yanacocha	Yes
Joselito Vazques Jambo	03-Jul-12	Industrial Mining	Minera Yanacocha	Yes
Nemecio Poma Ashnate	18-Sept-12	Industrial Mining	Minera Barrick Misquichilca	Yes
Santos Pablo Esquivel Iparraquirre	12-Apr-13	Industrial Mining	Minera San Simon	Yes
Mauro Pio Pena	26-May-13	Forestry	Balarin S.R.L.	N/A
Carlos Vazques Becerra	25-Jun-13	Industrial Mining	Newmont/Buenaventura	Yes

Appendix #2: Distribution of socio-environmental conflicts within Peru (data collated from Defensoría del Pueblo, 2007a-2013)

Department	2013	2012	2011	2010	2009	2008	2007	Average
Amazonas	2	0	0	1	-	2	0	0.83
Ancash	22	11	8	4	4	3	5	8.14
Apurimac	17	7	3	1	3	2	1	4.86
Arequipa	5	3	2	1	3	2	0	2.28
Ayacucho	9	5	7	-	4	6	3	5.66
Cajamarca	11	2	8	5	4	4	3	5.28
Cusco	9	0	5	3	6	6	-	4.83
Huancavelica	0	3	1	1	2	2	2	1.57
Huanuco	1	1	0	-	1	-	0	0.60
Ica	2	1	1	1	2	-	-	1.40
Junin	5	2	1	-	7	5	0	3.33
La Libertad	4	1	2	2	1	1	1	1.71
Lambayeque	1	1	0	-	2	2	-	1.20
Lima (Lima Provinces and Callao)	6	3	7	1	5	6	1	4.14
Loreto	8	5	1	2	3	4	0	3.29
Madre de Dios	1	0	1	1	2	-	-	1.00
Moquegua	2	2	0	-	2	1	2	1.50
Pasco	6	3	1	2	1	4	3	2.86
Piura	6	3	0	2	2	4	1	2.57
Puno	9	0	3	4	3	3	2	3.42
San Martin	1	0	1	-	2	1	1	1.00
Tacna	4	0	2	-	1	2	0	1.50
Tumbes	0	0	1	-	1	-	0	0.40
Ucuyali	-	0	0	-	-	-	0	0.00

Appendix #3: Main categories of causal factors involved in social conflict (see Le Billon et al., 2016)

Category	Description	Examples
Structural	Generic predisposing factors operating at a global level that have prompted industrial mining activities to transition to conflict-prone and under-regulated countries.	Economic liberalization policies of the 1980s and 1990s espoused by IFIs to reduce severe indebtedness. These policies opened up resource-rich developing countries to FDI and created favourable investment conditions for mining companies, but also weakened state capacities to manage adverse impacts of industry activities, and more generally, promote social welfare.
Contextual	Intervening/mediating factors at the national level, such as the quality of quality and type of institutions.	In mineral-rich developing countries weak institutions and/or poorly implemented mineral development policies have prevented host societies from benefitting materially from the global commodity super-cycle. Additionally, in the context of weak or nascent democracies in which protest activities are generally higher as a result of limited formal avenues for democratic participation, these unfulfilled expectations have created ripe conditions for social conflict at the local level.
Proximate/Trigger	Factors located at the local/operational level that transform otherwise latent tensions into outbreaks of social conflict (sometimes violent). These factors are diverse and specific to the case in question.	Social and environmental risks/impacts; land purchasing practices; labour contracting practices; distributional issues; human rights abuses; failure of grievance management mechanisms; etc.

**Appendix #4: Major episodes of environmental malfeasance (translated from
Tanaka & Melendez, 2009: 80)**

Date	Event	Location	Result
Nov. 1993	Chemical spill at exploration camp.	Quilish	Alopecia in birds. Locals complain of stomach pains.
Sept. 1998	High concentrations of heavy metals detected in waters surrounding El Milagro processing plant.	Quebrada Encajon	Locals complain of high risk from presence of heavy metals.
Dec. 1998	Toxic substances seep from Sipan tailings pond into Llapino river.	San Pablo, San Miguel	Deaths of fish along 20km stretch of Llapino river.
Dec. 1998	Truck transporting ammonium nitrate crushes, spilling toxic substance.	Tembladera, Chilete	Deaths of fish in Jequetepeque river.
Jan. 2000	Arsenic seeps out of Yanacocha tailings pond.	Granja Porcon, Gallito Ciego	Deaths of fish along a 180km stretch of the Jequetepeque river. More than 12 000 trout found dead in Granja Porcon fish farms
Jan. 2000	Toxic substances seep from Yanacocha tailings pond.	Llaucano river basin	Death of trout in Llaucano river.
Jun. 2000	Mercury spill.	Choten, Sanjuan, Choropampa, Magdalena	Approximately 1200 villagers suffer effects of mercury poisoning.
Aug. 2000	Mercury discovered in houses and schools in Cajamarca city.	Cajamarca city	Approximately 40 people suffer effects of mercury exposure.
Jan. 2001	Toxic substances seep from Yanacocha tailings pond.	Llaucano river basin	Death of approximately 10 000 trout in El Ahijadero fish farm and Llaucano river.
Jan-Mar. 2001	Two gas spills along the Jequetepeque river basin.	Jequetepeque river	Fishing activities paralyzed and locals report sickness.

Date	Event	Location	Result
Mar. 2001	Presence of heavy metals detected in Rio Grande river, and high pH levels in waters that supply Cajamarca city.	Puruay	Death of trout in Rio Grande river and Posada del Puruay fish farm.
Aug. 2001	High presence of acids detected in water sources in Porcon region	Granja Porcon fish farm	Death of trout

Appendix #5: MYSA-PNP service provision contract

CONVENIO DE PRESTACION DE SERVICIOS EXTRAORDINARIOS COMPLEMENTARIOS A LA FUNCION POLICIAL ENTRE LA POLICIA NACIONAL DEL PERU XIV-DIRECCION TERRITORIAL DE LA POLICIA –CAJAMARCA Y MINERA YANACOCCHA SRL.

Conste por el presente documento, el **Convenio de Prestación de Servicios Extraordinarios Complementarios a la Función Policial** que celebran, de una parte la Minera Yanacocha SRL, con RUC N° 20137291313, con domicilio en la Av. Via de Evitamiento Sur N° 549, urbanización La Rivera, Cajamarca, debidamente representada por el señor **Carlos Enrique SANTA CRUZ BENDEZU**, identificado con Documento Nacional de Identidad N° 07879078 y por el señor **Javier Augusto VELARDE ZAPATER**, identificado con Documento Nacional de Identidad N° 07791902, según poder inscrito en la Partida Electrónica N° 11346147 del Registro de Personas Jurídicas de Lima, a quienes en adelante se les denominará **MINERA YANACOCCHA** y de la otra parte la **POLICIA NACIONAL DEL PERU – XIV DIRECCION TERRITORIAL DE LA POLICIA Cajamarca**, con domicilio en la plazuela Amalia Puga s/n, barrio San Sebastián, Cajamarca, debidamente representada por su Director Territorial el General PNP **Jorge Santiago IPARRAGUIRRE MESTANZA**, identificado con Carné de identidad Policial N° 152330 y Documento Nacional de Identidad N° 43325131, a quien en adelante se le denominará la **POLICIA NACIONAL**, en los términos y condiciones siguientes:

CLÁUSULA PRIMERA: ANTECEDENTES

- 1.1 **MINERA YANACOCCHA** es una empresa dedicada al desarrollo de actividades mineras y que actualmente viene explotando su asiento minero ubicado en el departamento de Cajamarca, para lo cual requiere contar con el apoyo de la **POLICIA NACIONAL** a efectos de prevenir la comisión de delitos o atentados que puedan perpetrarse contra su personal y/o instalaciones, y asimismo desea contribuir con la seguridad de la ciudad de Cajamarca y otras localidades del ámbito de influencia de sus operaciones.
- 1.2 La **POLICIA NACIONAL**, de conformidad con el artículo 166° de la Constitución Política del Perú, garantiza el cumplimiento de las leyes y la seguridad del patrimonio público y privado; asimismo, brinda protección y ayuda a las personas y a la comunidad. Adicionalmente, de conformidad con el artículo 171° de la citada Carta Magna, participa en el desarrollo económico y social del país.
 - El artículo 51.1 de la Ley Orgánica de la Policía Nacional del Perú, Ley 27238, modificada por la Primera Disposición Complementaria Modificatoria de la Ley N° 28857, faculta al Director General de la **POLICIA NACIONAL**, con cargo a informar al titular del Sector, a celebrar Convenios con personas jurídicas para la prestación de servicios extraordinarios complementarios a la función policial. Asimismo, el artículo 4° del Reglamento de Prestación de Servicios Extraordinarios Complementarios a la Función Policial, aprobado mediante Decreto Supremo N° 004-2009-IN, ha establecido que los Directores Territoriales debidamente autorizados por delegación, Jefes Regionales y Comandos autorizados por éstos, con cargo a informar al escalón superior, podrán celebrar o aprobar dichos Convenios, para la Prestación de Servicios Extraordinarios Complementarios a la Función Policial.



- Mediante Resolución Directoral N° 1239-2009-DIRGEN/EMG del 20 de octubre de 2009, el Director General de la **POLICÍA NACIONAL** delega a los Directores Territoriales de la **POLICÍA NACIONAL**, la facultad de celebrar o aprobar Convenios, únicamente para la Prestación de Servicios Extraordinarios Complementarios a la Función Policial, con entidades públicas y privadas, para coadyuvar al mejor cumplimiento de sus funciones y objetivos.

CLÁUSULA SEGUNDA: OBJETO DEL CONVENIO

- 2.1 Establecer los términos y condiciones en que la **POLICÍA NACIONAL**, proporcionará de manera complementaria, seguridad y protección a **MINERA YANACOCHA**, su personal e instalaciones, así como la retribución a cargo de ésta a la **POLICÍA NACIONAL** para el cumplimiento del presente convenio.
- 2.2 De conformidad con lo señalado en el artículo 10°, literal A, numeral 1, del Reglamento de Prestación de Servicios Extraordinarios Complementarios a la Función Policial, aprobado mediante Decreto Supremo N° 004-2009-IN, el objeto del presente Convenio consiste en la prestación por parte de la **POLICÍA NACIONAL** de Servicios Extraordinarios Complementarios Institucionales Permanentes a la Función Policial para garantizar el normal desarrollo de las actividades administrativas y productivas de **MINERA YANACOCHA**, con la finalidad de prevenir la comisión de delitos o actos de violación de la ley en cualquiera de sus modalidades, perpetrados por personas al margen de la ley que puedan atentar contra el personal, bienes e instalaciones de **MINERA YANACOCHA**, estableciéndose para ello medidas de prevención y patrullaje con el fin de detectar y neutralizar los riesgos que se pudiesen presentar.
- 2.3 Para estos efectos, la **POLICÍA NACIONAL** convocará la participación del personal policial que se encuentre de vacaciones o de franco pertenecientes a la **XIV DIRECCION TERRITORIAL DE LA POLICIA Cajamarca (DIRTEPOL Cajamarca)**, que voluntariamente acepten prestar el servicio individualizado. De ser el caso, cuando se rebase la capacidad de dicho personal, la **POLICÍA NACIONAL** empleará un contingente de personal policial que se encuentren de servicio.

CLÁUSULA TERCERA: OBJETIVOS DEL CONVENIO

- 3.1 Establecer medidas de Prevención y Patrullaje a través del personal de la **XIV DIRTEPOL Cajamarca**, con la finalidad de prevenir, detectar y neutralizar riesgos que atenten contra el personal, instalaciones, maquinaria y equipo de **MINERA YANACOCHA** y contratistas, garantizando el normal desarrollo de las actividades mineras y otros aspectos técnicos propios de esta actividad.
- 3.2 Fortalecer la alianza estratégica entre la **POLICÍA NACIONAL** y **MINERA YANACOCHA**, mediante logros concretos en materia de seguridad, vigilancia y protección de equipos e instalaciones de la Empresa.

CLÁUSULA CUARTA: DE LAS OBLIGACIONES DE LAS PARTES.

4.1 DE LA POLICÍA NACIONAL

Por el presente Convenio la **POLICÍA NACIONAL** se compromete a prestar a **MINERA YANACOCHA** el Servicio Policial de Seguridad (en adelante el **Servicio Policial de Seguridad**), en los siguientes términos:

- 4.1.1 El **Servicio Policial de Seguridad** incluirá el planeamiento, ejecución y control del servicio de seguridad para la custodia de las instalaciones y personal de **MINERA YANACOCHA** ubicados en la localidad de Cajamarca.
- 4.1.2 El personal policial que se designe para cubrir el **Servicio Policial de Seguridad**, será aquel que la **POLICÍA NACIONAL** representada por el **Director de la XIV DIRTEPOL Cajamarca** determine en función a las normas y reglamentos que establecen la disposición y movilización de personal. No obstante para esta elección la **POLICÍA NACIONAL** designará prioritariamente personal especializado en control de multitudes de Cajamarca **DIVISION DE SERVICIOS ESPECIALES y DIRECCION DE OPERACIONES ESPECIALES (DIVSEESP y DIROES)**, en caso de ser necesario y cuando las circunstancias lo ameriten personal de esa especialidad de otras grandes Unidades Policiales.
- 4.1.3 La **POLICÍA NACIONAL** prestará el **Servicio Policial de Seguridad** sólo con personal de vacaciones, franco o personal que haya participado en acciones meritorias en actos del servicio, o de otras características, pero en este último caso, por motivos debidamente justificados.
- 4.1.4 Para el **Servicio Policial de Seguridad** relacionado con el orden público, el personal policial (**DIVSEESP y DIROES**), lo realizará en el Campamento de **MINERA YANACOCHA**; el personal policial tendrá alojamiento y alimentación, permanecerá uniformado y presto a intervenir en los diferentes asuntos que se relacionan con su función.
- 4.1.5 Para el **Servicio Policial de Seguridad** relacionado con el servicio policial básico, el personal policial lo realizará en la Comisaría Móvil ubicada en el Campamento de **MINERA YANACOCHA**, ubicado en el km. 24 de la carretera a Bambamarca; el personal policial tendrá alojamiento y alimentación, permanecerá uniformado y presto a intervenir en los diferentes asuntos que se relacionan con su función.
- 4.1.6 Todos los servicios prestados como parte del **Servicio Policial de Seguridad** tendrán una compensación económica diaria a pagar al término del mismo, o de acuerdo a la modalidad solicitada por **MINERA YANACOCHA**, para lo cual el Oficial de Coordinación u Oficial que éste designe, remitirá a **MINERA YANACOCHA** la relación nominal del personal policial que prestará el **Servicio Policial de Seguridad** para cada caso específico **CUARENTA Y OCHO (48)** horas antes del inicio de la prestación de dicho servicio; en casos de emergencia la documentación será transmitida por cualquier medio y lo más pronto posible.
- Para efectos de la retribución se deja expresa constancia que ésta se determinará en atención al servicio efectivamente prestado.
- 4.1.7 Teniendo en cuenta la modalidad de servicio que ejecuta la **POLICÍA NACIONAL**; los efectivos policiales que prestan el **Servicio Policial de Seguridad** en **MINERA YANACOCHA**, permanecerán en las instalaciones de ésta durante las **VEINTICUATRO (24)** horas del día,



cumpliendo una **facción de servicio**, durante el día, de **OCHO (08)** horas.

El personal policial asignado permanecerá uniformado y equipado reglamentariamente, de acuerdo a las disposiciones vigentes para este tipo de servicios.

- 4.1.8 **MINERA YANACocha** solicitará por escrito al Oficial de Coordinación a que se refiere la Cláusula QUINTA de este Convenio, las oportunidades en las que requerirá del **Servicio Policial de Seguridad**, en forma adicional al que ya está asignado de manera regular, así como la cantidad de personal policial que requerirá para cada una de dichas oportunidades. Excepcionalmente (de acuerdo a la situación) se hará el requerimiento telefónicamente con cargo a ser regularizado por escrito. Asimismo, la documentación que acredite el movimiento de personal, será considerada como anexo del presente, y será consolidada en un solo archivo.
- 4.1.9 En el caso que **MINERA YANACocha** verifique la ocurrencia de un incidente que pudiera implicar una deficiencia en el **Servicio Policial de Seguridad**, será reportado al oficial de coordinación y oficial que éste designe para que adopte las medidas del caso.
- 4.1.10 La **POLICÍA NACIONAL**, frente a cualquier eventualidad resultante de la prestación del **Servicio Policial de Seguridad** o acuerdos del presente Convenio, coordinará a través del Oficial Coordinador con el encargado por parte de **MINERA YANACocha**.
- 4.1.11 Cuando la situación requiera apoyo policial de otras Unidades o Subunidades de la **POLICÍA NACIONAL** que tengan que desplazarse a la ciudad de Cajamarca, el Director de la XIV DIRTEPOL Cajamarca coordinará previamente con **MINERA YANACocha**, quien correrá con todos los gastos que irroguen estos desplazamientos, tanto de salida, como de retorno, de todo el personal policial, conforme a lo establecido en la cláusula QUINTA, los mismos que dependerán operativa y administrativamente del Director de la XIV DIRTEPOL Cajamarca.
- 4.1.12 La **POLICÍA NACIONAL**, ejecutará Servicio de Patrullaje Rural en el **Área de Operaciones y Zona de Influencia de MINERA YANACocha**, para lo cual asignará vehículos de acuerdo a lo especificado en el ítem 4.2.5 del presente documento.
- 4.1.13 **DEL SERVICIO POLICIAL DE SEGURIDAD**
La **POLICÍA NACIONAL**, en cumplimiento a sus funciones intervendrá en situaciones especiales cuando la situación político social haga previsible que podrían afectarse directamente la integridad física de los trabajadores y contratistas de **MINERA YANACocha**, así como sus bienes de conformidad a la Constitución y la Ley.
- 4.1.14 En los casos que la **POLICÍA NACIONAL** preste las garantías necesarias para salvaguardar la integridad física de las personas, así como de los bienes de **MINERA YANACocha** y sus trabajadores o contratistas, puede realizar actos de servicio e intervenir en



cumplimiento de su mandato constitucional, conforme a lo indicado en la cláusula séptima.

- 4.1.15 El **Servicio Policial de Seguridad** será prestado en los lugares y condiciones indicadas a continuación:

La **POLICÍA NACIONAL** prestará el **Servicio Policial de Seguridad** a la Empresa **MINERA YANACOCKA** en zonas de propiedad de la misma y zonas de influencia de acuerdo a las situaciones de riesgo que se prevean y en cualquier otro lugar que sea requerido dentro de la zona de operaciones. **MINERA YANACOCKA** proporcionará transporte, alimentación y hospedaje adecuado que permita el alojamiento del personal policial y la protección del material y/o equipos logísticos para el cumplimiento de las funciones del personal policial asignado para prestar el **Servicio Policial de Seguridad**.

Asimismo, previa coordinación entre el Oficial de Coordinación y el Asesor Encargado por **MINERA YANACOCKA**, se prestarán otros servicios que requieran de personal policial, dentro de la Jurisdicción de la XIV DIRTEPOL de Cajamarca.

4.2 DE MINERA YANACOCKA

Por el presente Convenio **MINERA YANACOCKA** se compromete a lo siguiente:

- 4.2.1 Proporcionar directamente al personal policial que a solicitud de **MINERA YANACOCKA** sea destacado por la **POLICÍA NACIONAL** para prestar el **Servicio Policial de Seguridad**, la compensación económica prevista en el Anexo N°01 del D.S. N°00 4-2009-IN.

Adicionalmente a lo previsto en el párrafo precedente, **MINERA YANACOCKA** considerará un bono especial a los efectivos policiales, con motivo del alejamiento de sus residencias, a razón de un monto por cada día que esto suceda, conforme aparece en el Anexo 1 del presente documento. En caso que la Unidad Impositiva Tributaria sufriese cambios significativos, las partes revisarán la adecuación que corresponda al referido Anexo 1.

- 4.2.2 Contratar una póliza de seguro a favor del personal de la **POLICÍA NACIONAL** que preste el **Servicio Policial de Seguridad** en atención al presente convenio, que cubrirá los siguientes eventos:

- **Fallecimiento**
US \$ 20,000 (Veinte Mil y 00/100 Dólares Americanos).
- **Invalidez permanente**
US \$ 18,000 (Dieciocho mil y 00/100 Dólares Americanos).
- **Curaciones por Lesiones Graves, hasta**
US \$ 10,000 (Diez Mil Dólares y 00/100 Dólares Americanos).
- **Curaciones por Lesiones Leves, hasta**
US \$ 3,500 (Tres mil quinientos y 00/100 Dólares Americanos).



- **Sepelio**
US \$ 3,500 (Tres mil quinientos y 00/100 Dólares Americanos)
- **Traslado para atención médica**
Al 100 %

En caso que el personal policial sufriera algún accidente que implique invalidez permanente o fallecimiento, los montos comprendidos en la mencionada póliza de seguros serán otorgados de acuerdo a Ley.

- 4.2.3 La cobertura de la póliza de seguros se aplica desde el momento que el personal policial se traslada a la Zona de Influencia y Área de Operaciones, desde la salida de las instalaciones policiales hasta el retorno a la misma.
- 4.2.4 En los casos de lesiones leves o graves; establecidas en el ítem 4.2.2 que antecede; en primera instancia y de acuerdo a la gravedad que se presente, serán atendidos por emergencia en los centros de asistencia médica de **MINERA YANACOCKA** o de la jurisdicción, hasta su estabilización y traslado al centro médico que indique la **POLICIA NACIONAL**; ante la necesidad de atención médica especializada, serán trasladados a los nosocomios especializados de la Capital de la República, conforme a los términos del seguro previsto en el referido ítem 4.2.2, donde serán atendidos por el sistema de seguro detallado en el mencionado ítem. En caso de presentarse situaciones que escapen de la cobertura del seguro previsto en el numeral 4.2.2, las partes evaluarán la atención y financiamiento excepcional, lo que incluirá la posibilidad de atención médica fuera del país.
- 4.2.5 Proporcionar en calidad de comodato aquellos equipos que resulten necesarios para el adecuado cumplimiento del servicio, cuya identificación y descripción se detallarán en el cargo de recepción que suscribirá cada efectivo policial, quedando establecido que ante la pérdida o deterioro que no estén relacionados con actos del servicio serán repuestos por los efectivos policiales.
- 4.2.6 Queda convenido entre las partes, que **MINERA YANACOCKA** podrá inspeccionar el equipo entregado cuando lo considere pertinente.
- 4.2.7 Reforzar la capacitación del personal de la **POLICIA NACIONAL** destacado para prestar el **Servicio Policial de Seguridad en MINERA YANACOCKA**, en temas de Derechos Humanos y seguridad, previo acuerdo entre las partes.
- 4.2.8 Acreditar entre la XIV DIRTEPOL, Cajamarca al Coordinador encargado por **MINERA YANACOCKA**, quien se encargara de los aspectos administrativos del Convenio, así como la coordinación permanente del **Servicio Policial de Seguridad**.
- 4.2.9 Asumir todos y cada uno de los gastos que demande el desplazamiento de personal policial proveniente de otras Unidades o Subunidades de la **POLICIA NACIONAL** que tengan que desplazarse a la ciudad de Cajamarca, tanto de salida como de retorno, siempre que en forma previa al desplazamiento se haya coordinado los



términos de éste y costo total involucrado entre el Director de la XIV DIRTEPOL de Cajamarca y MINERA YANACOCKA.

- 4.2.10 Facilitar una asesoría legal, gratuita y permanente al personal policial que con ocasión de brindar el Servicio Policial de Seguridad, se vea involucrado en un proceso judicial derivado del cumplimiento de dicho servicio.

Se exceptúa de esta obligación los casos en que el acto que derive en un proceso judicial se origine en dolo, culpa, incumplimiento de normas de orden público o incumplimiento de las funciones de la PNP.

- 4.2.11 Cubrir los gastos de mantenimiento o reparación del armamento, accesorios y/o reposición del uniforme de faena policial de propiedad del Estado, que como consecuencia del Servicio Policial de Seguridad se deteriore, excepto cuando esta necesidad se origina por negligencia del personal de la Policía Nacional.

- 4.2.12 Abonar en forma mensual a la POLICIA NACIONAL el 0,11% del valor de la Unidad Impositiva Tributaria, por hora de servicio, teniendo en cuenta lo señalado en el ítem 4.1.7 (facción de servicio) del presente convenio; como monto correspondiente al total de la compensación económica que se determine conforme, a lo establecido en el Decreto Supremo N° 004-2009-IN, que aprueba el Reglamento de Prestación de Servicios Complementarios a la Función Policial (teniendo en cuenta el Anexo 01 del presente Convenio), suma que será depositada en la Cuenta Corriente N° 0741146401 del Banco de la Nación, a nombre de la UE N°05 - III DIRTEPOL Trujillo, como Recursos Directamente Recaudados, debiendo remitir en forma mensual copia de la papeleta de depósitos a la XIV DIRTEPOL Cajamarca.

- 4.2.13 Este ingreso será destinado a cubrir los costos logísticos o administrativos en que incurra la POLICIA NACIONAL, por la prestación de los Servicios Complementarios a la Función Policial constituyéndose recursos directamente recaudados y asignados a la función policial.

- 4.2.14 Proporcionará pasajes vía aérea y viáticos al Director de la XIV DIRTEPOL Cajamarca o su representante, cuando viajen a la Ciudad de Lima con la finalidad de exponer ante el Comando Institucional la situación sociológica de la Empresa Minera.

CLÁUSULA QUINTA: DESIGNACION DE COORDINADORES INSTITUCIONALES.

Para efectos de la ejecución del presente convenio, las partes designan a los siguientes representantes:

POLICIA NACIONAL : Jefe de la OFAD - XIV DIRTEPOL Cajamarca.

MINERA YANACOCKA : José Antonio Ríos-Pita Díez

CLÁUSULA SEXTA: DE LA VIGENCIA

- 6.1 El presente convenio tendrá vigencia desde la fecha de su suscripción, concluyendo el 31 de diciembre de 2012.
- 6.2 La vigencia del presente Convenio podrá ser prorrogada por **MINERA YANACOCKA** por un plazo de hasta noventa (90) días adicionales, mediante la remisión de una comunicación escrita dirigida a la **POLICÍA NACIONAL** en la que manifiesta su intención de ampliar la vigencia del Convenio e indique el plazo de tal ampliación.
- 6.3 Cualquier ampliación de la vigencia del presente convenio por un plazo mayor a los **NOVENTA (90)** días antes indicados requerirá acuerdo previo, expreso y escrito de las partes.

CLÁUSULA SÉTIMA: DE LA LIBRE SEPARACION

- 7.1 El presente convenio se resolverá de pleno derecho, si se dieran alguna de las condiciones que se señalen a continuación:

- El incumplimiento injustificado de cualquiera de los compromisos estipulados en el presente convenio; para ello bastará que la parte perjudicada notifique notarialmente el incumplimiento a la otra parte, dentro de los quince (15) días calendario siguiente de producido el hecho.
- El acuerdo de resolución adoptado por las partes, deberá constar por escrito, y ser suscrito bajo la misma modalidad y con las formalidades con que se suscribe el presente convenio.
- Por fuerza mayor o caso fortuito debidamente acreditado que impida de forma absoluta el cumplimiento del presente Convenio.

- 7.2 En cualquier caso la resolución surtirá sus efectos a los quince (15) días calendario siguiente a la notificación de incumplimiento o acuerdo de resolución, luego de los cuales se darán por concluidas las actividades materia de este convenio, debiendo ambas partes elaborar un informe completo de lo avanzado hasta la fecha.

CLÁUSULA OCTAVA: SOLUCION DE CONTROVERSIAS

Cualquier discrepancia y/o controversia de la interpretación o cumplimiento del presente convenio se tratarán de solucionar mediante trato directo de las partes, siguiendo las reglas de la buena fe y común intención, comprometiéndose a brindar sus mejores esfuerzos para lograr la solución armoniosa en atención al espíritu de colaboración mutua de las partes celebrantes.

CLÁUSULA NOVENA: DISPOSICIONES VARIAS

- 9.1 Las partes dejan claramente establecido que no existe, ni existirá relación laboral alguna entre los efectivos policiales que presten el Servicio Policial de Seguridad y **MINERA YANACOCKA**.
- 9.2 La **POLICIA NACIONAL** será responsable por el cumplimiento de todas las obligaciones laborales relacionadas con el personal policial que preste el Servicio Policial de Seguridad en virtud del presente Convenio, por lo que



asumirá cualquier pago, multa o penalidad de cualquier tipo o naturaleza que fuera impuesta por causa del incumplimiento o infracción de la legislación laboral o social vigente con respecto al personal policial destacado, de acuerdo a las leyes y Reglamentos vigentes que rigen el Servicio Policial.

- 9.3 Se deja expresa constancia que, **LA POLICÍA NACIONAL** podrá solicitar por escrito otros apoyos que estime convenientes, que permitan contribuir con el mejoramiento de la infraestructura y equipamiento con que cuenta la **POLICÍA NACIONAL**, de modo que se beneficie a la población de Cajamarca. **MINERA YANACOCCHA**, evaluará esas solicitudes y solo se considerará que han sido aceptadas si la aceptación consta en documento escrito otorgado por el Coordinador Encargado de **MINERA YANACOCCHA**. Cualquier propuesta de cooperación será canalizada a través de la XIV DIRTEPOL Cajamarca.
- 9.4 Cualquier modificación al presente Convenio constará por escrito en un documento firmado por los representantes autorizados de las partes.

CLÁUSULA DÉCIMA: ALCANCES DE LA FUNCION POLICIAL

- 10.1 Las partes acuerdan en forma expresa que la prestación del **Servicio Policial de Seguridad** no impide, ni limita a la **POLICÍA NACIONAL** cumplir con su finalidad de garantizar, mantener y restablecer el orden interno.
- 10.2 En ese sentido, la existencia del presente Convenio no limita, ni impide a la **POLICÍA NACIONAL** y/o a su personal prevenir, combatir, investigar y denunciar los delitos y faltas previstos en el Código Penal y leyes especiales, perseguibles de oficio, garantizar la seguridad ciudadana, así como garantizar la libre circulación vehicular y peatonal en la vía pública y en las carreteras.
- 10.3 Por consiguiente, de presentarse un caso en el cual la **POLICÍA NACIONAL** y/o su personal se vean en la necesidad de intervenir en ejercicio de la función policial, podrán hacerlo, cumpliendo de esta manera con lo dispuesto por las normas que los rigen y conforme a las cuales estos deben considerarse permanentemente en servicio.
- 10.4 Finalmente, las partes dejan constancia que cuando el personal de la **POLICÍA NACIONAL** realicen un acto de servicio en ejercicio de la función policial (y por tanto no estén prestando el Servicio Policial de Seguridad), no resultarán exigibles las obligaciones de **MINERA YANACOCCHA** referidas en la cláusula, Cuarta, a excepción de los numerales 4.2.2 y 4.2.4 de la referida cláusula.

CLÁUSULA DÉCIMO PRIMERA: DE LA JURISDICCION

Para cualquier controversia que pudiera surgir entre las partes relacionada con la validez o ejecución del presente Convenio, las partes se someten expresamente a la jurisdicción de los jueces y tribunales del Distrito Judicial de Cajamarca, renunciando al fuero de sus domicilios.

CLÁUSULA DÉCIMO SEGUNDA: DE LOS DOMICILIOS

- 12.1 Para todos los efectos del presente Convenio, las partes señalan como sus domicilios los mencionados en la parte introductoria del presente documento.
- 12.2 Cualquier variación de los domicilios será comunicada previamente a la otra parte por escrito con una anticipación de por lo menos QUINCE (15) días calendario. De no cumplirse dicho requisito, las comunicaciones cursadas



a los domicilios mencionados en el acápite anterior se consideraran correctamente efectuadas.

- 12.3 Las comunicaciones cursadas a domicilios distintos a los establecidos en esta cláusula se consideraran no efectuadas.

CLÁUSULA DÉCIMO TERCERA: DE LA CONFIDENCIALIDAD

La **POLICÍA NACIONAL**, en nombre propio y en representación del personal policial que destaque para la ejecución del presente Convenio, se compromete a dar un tratamiento confidencial y a no revelar a terceros, sin el previo consentimiento escrito de **MINERA YANACocha**, información alguna de la que la **POLICÍA NACIONAL** o su personal destacado tenga conocimiento o puedan tener acceso durante y/o con ocasión del cumplimiento del presente Convenio. Esta cláusula de confidencialidad se aplicará en la medida que las normas legales que rigen a la **POLICÍA NACIONAL** y en general a la actividad pública lo permitan.

Esta disposición será válida durante el periodo de vigencia de este convenio y con posterioridad al mismo. La **POLICÍA NACIONAL** se compromete a no hacer uso alguno de la información, salvo para prestar el **Servicio Policial de Seguridad**.

CLÁUSULA DÉCIMO CUARTA: DE LA LEY APLICABLE

Queda establecido entre ambas partes, que el presente convenio se encuentra sometido a las leyes peruanas.

Las partes manifiestan su total acuerdo con cada una de las cláusulas del presente convenio, suscribiéndolo en señal de conformidad a los 31 días del mes de marzo de 2011, en cuatro (4) ejemplares del mismo valor y tenor.



Jorge Santiago Farragut Mestanza
 Jorge Santiago FARRAGUT MESTANZA
 GENERAL PNP
 Director de la XIV DIRTEPOL Cajamarca
 POLICÍA NACIONAL DEL PERÚ

Carlos Enrique Santa Cruz Benítez
 Carlos Enrique SANTA CRUZ BENÍTEZ
 MINERA YANACocha SRL



Benedicto Nolasco Colchaco
 BENEDICTO NOLASCO COLCHACO
 COMANDANTE PNP
 JEFE OFICINA XIV DIRTEPOL
 CAJAMARCA

Janier Augusto Velarde Zapater
 Janier Augusto VELARDE ZAPATER
 MINERA YANACocha SRL



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 Janier Augusto VELARDE ZAPATER
 MINERA YANACocha SRL