

**Strong Companies, Weak States:  
Contention, Corporate Social Responsibility, and Accountability in the Global  
Mining Industry**

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## **Abstract**

Industrial natural resource extraction is a significant source of conflict among citizens, corporations and states throughout the world. Corporate Social Responsibility (CSR) seeks to reduce the social, political, and environmental concerns of communities affected by natural resource extraction through voluntary corporate actions. However, the provision of CSR goods such as education, healthcare, and environmental protection do not necessarily alleviate the concerns of local communities, and critics of CSR note that it cannot replicate state-led development and regulation. By examining conflict regarding large-scale industrial mining operations in Chile and Peru, current critiques of corporate social responsibility are re-theorized to answer why some communities demand direct corporate accountability rather than more robust state-based accountability. I argue that citizens' relationships of power with states and corporations have been shaped by their historical experiences of state perpetrated violence. In each case study I explore variation among repertoires of contention employed by citizens in relation to the perceived accountability of corporations and states. Where citizens feel unrepresented or threatened by the state, they may prefer to direct demands for accountability towards a corporation that is claiming to be socially responsible. In so doing, I challenge critiques of CSR-governance that focus on the absence of state-led development. By incorporating mining-affected communities as actors demanding accountability rather than subjects of exploitation, I push towards more complex theories of corporate social responsibility and resource governance more generally.

## **Lay Summary**

Mining is a highly contentious process. Corporations are interested in securing the profits of resource development, while governments face pressure from their citizens to ensure the environment is respected and mineral wealth is distributed throughout society. However, some governments are unable to address these concerns, leading corporations to directly solve these problems through “corporate social responsibility” (CSR). By providing goods and services to communities, corporations become accountable to these communities outside areas of government control. This occurs within the historical context of a given country – I focus on Chile and Peru. The differences in how citizens have experienced violence at the hands of the government in each country greatly affect how each community reacts to CSR. I argue that when citizens feel unrepresented or attacked by the government, they may prefer to address their concerns regarding mining towards companies that claim to be socially responsible.

## **Preface**

The author, Stefan Michael Parker, as the lead investigator for a project has researched portions of Chapter 3 and Chapter 4.2 with Professor Marcello Veiga at the University of British Columbia. This joint project has yet to be submitted for publication. The author researched, designed, and composed this thesis.

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*To Nonno and Nonna, who know where the potato is from the flower*

## Chapter 1: Introduction

On March 13, 2017, the Chilean Supreme Court revoked a temporary closure permit for Barrick Gold's Pascua-Lama mine.<sup>1</sup> The permit, which Chile's mining regulator issued, would have allowed the company to suspend maintenance operations at the uncompleted mega-mine as efforts to move forward with construction have consistently been obstructed by communities near the mine through protests and court proceedings. The Supreme Court ruled in favour of the Huasco River Surveillance Board, a local environmental group that argued that the company needed to continue restoring contaminated waterways and complete the construction of a water management facility, despite simultaneously being prohibited from continuing the construction of the mine.<sup>2</sup> Many of Barrick's water monitoring processes throughout the Huasco River Valley, atop which the Pascua-Lama mine sits, were undertaken voluntarily as part of the company's corporate social responsibility (CSR) program intended to alleviate the social and environmental concerns of communities regarding mining development.<sup>3</sup> Yet through contentious claims directed towards state institutions, the communities of the Huasco Valley have rejected these voluntary mechanisms of corporate accountability, transforming them in to legally binding injunctions imposed upon the corporation by the state.<sup>4</sup>

The Yanacocha mine in northern Peru has also faced significant opposition from local communities, which have at times forced the company to stop production and blocked multiple

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<sup>1</sup> Diario Financiero, "Corte Suprema Invalida Autorizacion de Cierre Temporal de Pascua-Lama. *Diario Financiero*, March 13, 2017. <https://www.df.cl/noticias/empresas/mineria/corte-suprema-invalida-autorizacion-de-cierre-temporal-de-pascua-lama/2017-03-13/211219.html> (Accessed June 28, 2017).

<sup>2</sup> Ibid.

<sup>3</sup> Barrick Gold, "Reporte Responsabilidad: Chile 2009," *Barricklatam.com* [http://barricklatam.com/barrick/site/artic/20120606/asocfile/20120606180459/reporte\\_chile\\_rse2009.pdf](http://barricklatam.com/barrick/site/artic/20120606/asocfile/20120606180459/reporte_chile_rse2009.pdf) (Accessed April 9, 2017).

<sup>4</sup> Charles Tilly and Sydney Tarrow, *Contentious Politics*, (London: Paradigm Publishers, 2007); Fabiana Li, "The Defeat of Pascua-Lama: How Local Resistance Halted Construction of a Destructive Mining Project on the Chilean Border," *The North American Congress on Latin America*, September 3, 2016 <http://nacla.org/news/2016/03/09/defeat-pascua-lama> (Accessed April 7, 2017).



attempts to expand its operations in the region since 2004. Yet the forms of contention employed by communities in the Cajamarca region of Peru vary drastically from their counterparts in Chile.<sup>5</sup> Rather than pursuing legal action, violent clashes between anti-mining protestors and state security forces have occurred a number of times since the project began operation in 1993. Mining-related violence climaxed in July 2012, when Peruvian armed forces attacked over 2000 protestors that were marching to occupy Yanacocha's property, resulting in 5 deaths, 21 injuries, and the detainment of hundreds of civilians.<sup>6</sup> Although Minera Yanacocha has invested over \$1 billion in CSR programs similar to those created by Barrick in Chile, local communities have not allowed the company to expand its operations in the region, nor have they held Yanacocha accountable through state institutions.<sup>7</sup> Rather, the reliance of communities upon extra-institutional forms of contention directed towards the corporation suggests that for citizens the corporation has been deemed the actor accountable, while the state simply represents the coercive arm of this entity.

In contrast, Barrick Gold's Lagunas Norte mine in La Libertad, Peru has maintained production operations since 2006, and efforts by the company to resolve the concerns of local communities through CSR programs and direct dialogue have resulted in the de-escalation of conflicts and developed stable corporate-community relations.<sup>8</sup> However, rather than working through state institutions to hold Barrick socially and environmentally accountable as has been done in Chile, communities surrounding Lagunas Norte have had limited institutional interaction

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<sup>5</sup> Charles Tilly, *Regimes and Repertoires* (Chicago: The University of Chicago Press, 2006).

<sup>6</sup> Reuters – Lima Office, "Peru Clash Over Newmont Mine Kills Three," *Reuters.com*, July 3, 2012. <http://www.reuters.com/article/2012/07/04/us-peru-newmont-idUSBRE8621CB20120704> (Accessed April 10, 2017).

<sup>7</sup> Brett Walton, "Conga Mine Halted in Peru due to Water Concerns, Civic Opposition." *Circle of Blue*, April 21, 2016 <http://www.circleofblue.org/2016/south-america/conga-mine-peru-halted-water-concerns-civic-opposition/> (Accessed April 5, 2017).

<sup>8</sup> Reuters, "Barrick to Start Mediation Effort at Peru Mine," *Reuters.com*, February 22, 2013 <http://www.reuters.com/article/barrick-peru-idUSL1N0BM2QZ20130222> (Accessed March 31, 2017).

with the Peruvian government. They have also avoided the forms of extra-institutional contention seen in Cajamarca. Communities near the mine have instead addressed their concerns to Barrick through the company's grievance, community engagement, and development mechanisms as these CSR initiatives have made the corporation directly accountable to the citizens of La Libertad.<sup>9</sup>

The cases identified above vary substantially as to how populations affected by mining enact contention towards corporate and state actors, and will be analyzed in detail below with the addition of a counterfactual case. The communities of the Huasco Valley in Chile have made use of state institutions to stop mining development and hold corporations accountable, while Peruvian communities have either resorted to direct action against the corporation involved as seen in Cajamarca, or have accepted individualized rather than structural forms of development offered by Barrick's CSR programs at Lagunas Norte. Populations at the forefront of extractive processes throughout the world face similar circumstances as corporations and state actors attempt to expand industrial development. Yet as corporations increasingly use CSR to create de facto legitimacy and self-ascribed accountability for corporate activity among the communities in which they operate, affected citizens respond through a variety of what Tilly refers to as "repertoires of contention" in order to assert their social, economic, and environmental claims.<sup>10</sup> While some communities oppose self-ascribed corporate accountability in favour of state-based contention, others direct contentious claims towards the very corporations that have placed themselves in positions of accountability, despite the limited scope of CSR goods relative to state-led development and their contingency upon mining taking place. Why do some

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<sup>9</sup> Tiffany Grabski, "Lagunas Norte Social Conflict due to "Misunderstanding" – Barrick Gold," *BNAmericas* February 25, 2013 <https://subscriber.bnamericas.com/en/news/mining/laguna-norte-social-conflict-based-on-a-misunderstanding-barrick-gold> (Accessed April 14, 2017).

<sup>10</sup> Tilly, *Regimes*"; Tilly and Tarrow, *Contentious*"; Peter Dauvergne and Jane Lister, *Eco-Business: A Big-Brand Takeover of Sustainability*, (Cambridge: MIT Press, 2013) 16-19.

communities direct contentious claims towards voluntarily accountable corporations rather than towards the governing apparatus of the state?

CSR has become increasingly prominent in the global mining industry since the 1990s as multinational corporations recognized that host-countries, particularly those of the global South, have struggled to resolve the environmental, social, and economic demands of citizens in relation to natural resource extraction. The inability of states to respond to these demands has at times forced companies to suspend operations due to citizen resistance, thereby impeding upon the ability of the corporation to fulfill its existential purpose – profit generation.<sup>11</sup> Engaging in CSR thus allows corporations to directly address the contentious claims of communities affected by industrial mining in an effort to legitimize extraction by providing social and environmental goods, ultimately advancing corporate goals.

Yet CSR is not simply enacted upon subordinated and agentless communities.<sup>12</sup> Rather, communities making contentious claims regarding resource extraction do so within a specific historical and structural context of power relations. The defining feature of these power relations is the capacity of the state to monopolize violence and provide services – the relative strength of the state.<sup>13</sup> As weak states lack the capacity to provide services to citizens, corporations fill this governance vacuum by providing CSR goods and services.

In Chile and Peru, many citizens in rural areas affected by mining development are underserved by the state, and have also experienced violence perpetrated by the state. However, the variation between these two cases is critical, as state violence in Chile is associated with a

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<sup>11</sup> Dauvergne and Lister, *Eco-Business*; Virginia Haufler, *A Public Role for the Private Sector: Industry Self-Regulation in a Global Economy*. (Washington: Carnegie Endowment for International Peace, 2001).

<sup>12</sup> James Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, (New Haven: Yale University Press, 1985).

<sup>13</sup> Arjun Chowdhury, *Expectations of Order: Why Weak States Persist and Alternatives to the State Fade Away*, (Oxford: Oxford University Press, Forthcoming) 6-7.

specific regime, while state-perpetrated violence has been consistent throughout Peruvian history, greatly affecting the provision of services in each case. These differing histories of violence shape citizens' conceptions of the state as a power that may potentially be a direct source of harm – rather than an entity seeking to serve citizens. Thus, when enacting contentious claims towards either corporate or state powers, communities do so within a history of violence and representation that incentivizes varying forms of contention. Though corporate social responsibility may not produce the quality of outcomes communities desire, engaging with strong corporations that have created relationships of accountability may be considered less costly than directing contention towards a hostile or incapable state.<sup>14</sup> Thus, as corporations increasingly make themselves accountable to communities by responding to these claims through CSR programs, communities enact varying forms of contention towards these non-state actors lacking the capacity to generate the quality of development that can be constructed by a strong administrative state.

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<sup>14</sup> Chowdhury, *Expectations*.

## Chapter 2: The Responsibility(ies) of the Corporation

As extractive corporations expand their operations further into previously unindustrialized areas of the developing world, the communities in which mining operations take place face a range of environmental and social challenges associated with large-scale industrial development – often leading to conflict among communities, corporations, and governments. Companies have come to recognize the ways in which host communities negatively react to their operations and have consequently undertaken increasingly complex strategies of voluntary community engagement.<sup>15</sup> CSR in the mining industry typically consists of providing social and environmental goods in order to alleviate the tensions caused by corporate actions and reduce the potential for conflict to occur.<sup>16</sup> Extractive companies have also attempted to become more transparent in their activities, engaging in third party reporting, community dialogues, and openly admitting errors in an effort to gain trust and legitimacy both locally and internationally.<sup>17</sup> At times, these types of CSR initiatives have not been successful for corporations, and conflicts with communities remain significant obstacles to ongoing business operations.<sup>18</sup> Yet the mining industry is also able to produce positive examples of well-executed CSR that has overcome conflict and allow mining operations to continue.<sup>19</sup> Indeed, corporations that are able to

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<sup>15</sup> Hevina Dashwood, *The Rise of Global Corporate Social Responsibility: Mining and the Spread of Global Norms* (Cambridge: Cambridge University Press, 2012), 38-45.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid; Ian Jones et al., *Multinationals in Their Communities: A Social Capital Approach to Corporate Citizenship Projects*, (Great Britain: Palgrave Macmillan, 2007), 49-84; Blair Gifford et al., “Building Local Legitimacy into Corporate Social Responsibility: Gold Mining Firms in Developing Nations,” *Journal of World Business* 45 (2010): 305-306; Jędrzej Frynas, *Beyond Corporate Social Responsibility: Oil Multinationals and Social Challenges*, (Cambridge: Cambridge University Press, 2009), 16, 29.

<sup>18</sup> E.g. Keith Slack, “Mission Impossible?: Adopting a CSR-based Business Model for Extractive Industries in Developing Countries,” *Resources Policy* 37(2012): 179-184.

<sup>19</sup> Gestion, “Levantando Bloqueos en Contra de Minera Barrick tras Diálogo en Trujillo,” Gestion, February 27, 2013 <http://gestion.pe/politica/levantan-bloqueos-contraminera-barrick-dialogo-trujillo-2060167> (Accessed April 7, 2017).

constructively engage with the communities in which they operate have had success in de-escalating conflict and continuing business operations.<sup>20</sup>

Despite the (limited) success of CSR, critics argue that corporations are incapable of acting in the public interest as private-profit seeking actors, and are unable to overcome the larger governance and structural issue that underlie poverty and environmental injustice in the developing world due to their position as market actors rather than market regulators.<sup>21</sup> Activists and academics have expressed concern that CSR is not a substitute for state-led development and regulation, suggesting that CSR goods may at times even subvert attempts by state actors to assert authority and capacity in certain areas.<sup>22</sup> This is due to the limited capacity and private rather than public accountability of CSR as a tool capable of serving public interests only to the degree these actions maximize financial gains.<sup>23</sup> As Ximena Warnaar, an indigenous rights activist in Lima noted, “if it were a state responsibility, everyone would have a right to a school. But mines just build schools in nearby communities”.<sup>24</sup> Criticisms of CSR such as this illuminate the problematic nature of private actors providing public goods and the associated issues of equality, participation, and accountability that arise from the inherently limited scope of the corporate provision of goods.<sup>25</sup>

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<sup>20</sup> Ibid

<sup>21</sup> E.g. Sara Elder and Peter Dauvergne, “Farming For Walmart: The Politics of Corporate Control and Responsibility in the Global South,” *The Journal of Peasant Studies* 42:5 (2015): 1029-1046; Emma Gilberthorpe and Glenn Banks, “Development on Whose Terms?: CSR Discourse and Social Realities in Papua New Guinea’s Extractive Industries Sector,” *Resources Policy* 37 (2012): 185-193.

<sup>22</sup> E.g. Anthony Bebbington. “Extractive Industries and Stunted States: Conflict, Responsibility and Institutional Change in the Andes,” in *Corporate Social Responsibility: Comparative Critiques*, ed. Ravi Raman and Ronnie Lipschutz (Great Britain: Palgrave Macmillan, 2010).

<sup>23</sup> Ibid; Milton Friedman, “The Social Responsibility of Business is to Increase Its Profits,” *The New York Times Magazine*, September 13, 1970.

<sup>24</sup> Marco Oved, “Fool’s Gold: The Limits of Tying Aid to Mining Companies,” *The Toronto Star*, December 15, 2014

[https://www.thestar.com/news/world/2014/12/15/fools\\_gold\\_the\\_limits\\_of\\_tying\\_aid\\_to\\_mining\\_companies.html](https://www.thestar.com/news/world/2014/12/15/fools_gold_the_limits_of_tying_aid_to_mining_companies.html) (Accessed March 15, 2017).

<sup>25</sup> Haufler, *A Public Role*; Bonnie Campbell, “Corporate Social Responsibility and Development in Africa: Redefining the Roles and Responsibilities of Public and Private Actors in the Mining Sector,” *Resources Policy* 37

Regardless of these criticisms, many citizens around mining communities embrace CSR initiatives.<sup>26</sup> The meaningful reduction of conflict through CSR practices at mines such as Barrick Gold's Lagunas Norte open-pit gold mine in northern Peru exemplifies how the participatory distribution of goods and community consultation can effectively be employed to the benefit of communities.<sup>27</sup> Corporations too have embraced CSR as a useful tool through which profits can be maximized by reducing tensions with local communities, even if these initiatives may not create long-term stability.<sup>28</sup> Not only have extractive corporations increased CSR spending in areas of contention, but non-governmental organizations (NGOs) and other civil society actors once largely opposed to corporate activity have begun to work with corporations to implement CSR programs.<sup>29</sup> Thus, CSR has not only gained legitimacy within the business community as a tool of profit generation, but also among citizens, civil society actors, and governments with larger interests in justice and meaningful development.

## 2.1: Voluntary Actions, Legal Obligations

The rise of corporate social responsibility is often portrayed as a startling innovation in business and management literature, pushing its way into the management structures of corporations and changing how business managers perceive their obligations to shareholders as

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(2012): 138-143. Peter Newell, "Citizenship, Accountability and Community: The Limits of the CSR Agenda," *International Affairs* 81:3 (2005): 541-557.

<sup>26</sup> Oved, "Fool's Gold"; In *Weapons of the Weak*, 284-286, James Scott notes that although a person in a lower position of power may participate in the goods distributed by the powerful actor, this participation and public gratitude does not necessarily mean that the person approves of the goods or the entity responsible for distributing them.

<sup>27</sup> Fiorella Triscritti, "Mining Development and Corporate-Community Conflicts in Peru," *Community Development Journal* 48:3 (2013): 445.

<sup>28</sup> E.g. Hevina Dashwood, "Sustainable Development Norms and CSR in the Global Mining Sector," In *Governance Ecosystems: CSR in the Latin American Mining Sector*, eds. Julia Sagebien and Nicole Marie Lindsay (Hampshire: Palgrave MacMillan, 2011), 41.

<sup>29</sup> Alan Reinoso and Esthefany Herrera, "Canadian Mining Companies in Peru: Barrick and Bear Creek," *Latin American Policy* 7:2 (2016): 340-343.

well as other “stakeholders” – all groups and individuals affected by a corporation’s behaviour.<sup>30</sup> Some scholars argue that CSR is able to reduce the social and environmental problems created by corporate operations by addressing the concerns of stakeholders and making business activity less contentious – benefiting communities and corporations in the process.<sup>31</sup> This literature and the management practices with which it is associated tend to focus on concepts such as “corporate citizenship” that seek to make corporations active contributors to the betterment of the communities in which they operate.<sup>32</sup> But to frame the concept within the narrow lines of corporate-community relations fails to consider the larger political, economic, and legal structures within which CSR exists.

Limited liability corporations arose as legal entities in the 19<sup>th</sup> century as a tool that allowed for individuals to invest their money into profit generating organizations without being personally exposed to the legal risks of managing the organization.<sup>33</sup> The purpose of these organizations is to generate profit for shareholders.<sup>34</sup> The construction of the corporation as a profit-generating entity under law thereby constricts its realm of responsibility to the facticity of law.<sup>35</sup> This strictly legal theory of the corporation thus limits the ability of corporations to engage in normative behaviour.<sup>36</sup> Indeed, compliance with legal responsibilities such as environmental regulations are only necessary to the extent that they allow for the generation of profit by ensuring that the state does not impose fines or suspend corporate operations due to legal

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<sup>30</sup> E.g. Oliver Falck and Stephan Hebllich, “Corporate Social Responsibility: Doing Well by Doing Good,” *Business Horizons* 50 (2007).

<sup>31</sup> Melanie Dare et al., “Community Engagement and Social License to Operate,” *Impact Assessment and Project Appraisal* 32:3 (2014): 188-197; Frynas, *Beyond*, 16, 29.

<sup>32</sup> Dirk Matten and Andrew Crane, “Corporate Citizenship: Toward and Extended Theoretical Conceptualization,” *The Academy of Management Review* 30:1 (2005): 166-179.

<sup>33</sup> Friedman, “The Social”.

<sup>34</sup> Ibid.

<sup>35</sup> Jurgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, (Cambridge: The MIT Press, 1996);

<sup>36</sup> Ibid; John Douglas Bishop, “The Limits of Corporate Human Rights Obligations and the Rights of For-Profit Corporations,” *Business Ethics Quarterly* 22:1 (2012): 124.



violations. Although environmental regulations may be imposed as a response by a government recognizing normative claims made by citizens, due to its legal status, the corporation and its employees are only legally susceptible to these claims, even if those who work within the corporation may feel ethical responsibilities.<sup>37</sup> The theoretical argument then follows that the allocation of corporate resources to fulfill *legal* responsibilities that produce social and environmental goods is congruent with the existential purpose of the corporation, even though such activities may not directly generate profit.<sup>38</sup> Thus, the legal foundations of the corporation and the economic responsibilities this legal framework implies place strict limitations on the role of corporations within societies, not enabling them to act as morally autonomous citizens but instead restricting them to act as profit generating entities.

In practice, corporations are also susceptible to normative claims made upon them by the societies in which they operate. For example, in 1995 Royal Dutch Shell was forced to dismantle the Brent Spar offshore oilrig on land rather than sinking the structure into the sea as was acceptable under British law due to petitioning by environmental activists.<sup>39</sup> Corporations such as Wal-Mart, General Electric, and many others have undertaken sustainability programs to make business operations more appealing to environmentally conscious consumers.<sup>40</sup> CSR theorists that do not strictly endorse shareholder responsibility conceptions of the corporation often point to examples such as those described above to emphasise the susceptibility of managers to moral claims.<sup>41</sup> These theorists argue that the rise of CSR has been the result of managers bringing their personal attitudes towards environmental protection and societal well

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<sup>37</sup> Hamish van der Ven, "Socializing the C-Suite: Why Some Big Box Retailers and 'Greener' Than Others," *Business and Politics* 16:1 (2014): 31-63.

<sup>38</sup> Friedman, "The Social."

<sup>39</sup> Haufler, *A Public Role*, 23.

<sup>40</sup> Dauvergne and Lister, *Eco-Business*. Although Dauvergne and Lister argue that corporate efforts to make their operations more environmentally sustainable are done to improve efficiency and increase profit, they do note the branding power of "eco-business".

<sup>41</sup> Ibid

being into their roles as business operators, and then redirecting corporate resources in ways they believe are “responsible” towards actors who are not profit-driven shareholders.<sup>42</sup>

Such arguments often coincide with stakeholder theories of corporate responsibility in which the corporation is responsible not only to its shareholders, but to all the actors affected by its operations.<sup>43</sup> As corporate actions affect stakeholders, stakeholders must be considered when planning business operations, with some theorists suggesting that businesses have an ethical responsibility to treat stakeholders justly.<sup>44</sup> Although non-legal demands made by non-shareholders do not de jure require acknowledgement by the corporation, stakeholder theory suggests that corporations have a de facto responsibility to these actors.<sup>45</sup> These theories have influenced the concept of corporate citizenship and the rise of corporate social responsibility.<sup>46</sup> But how then do corporations act in a socially responsible manner towards stakeholders when the demands of stakeholders may directly interfere with the legal obligations of profit maximization?

To reconcile this paradox, CSR must be understood as a voluntary business activity. As stakeholders make contentious claims towards corporations rather than states – for example asking a mining company to protect water sources from contamination – corporations choose to respond to these claims. Should a corporation respond to a claim, this is done through voluntary corporate action, not legal obligation. Due to the voluntary nature of the response, the corporation is only bound to the self-regulating action to the degree that it seeks to appease the claim-making stakeholders. Thus, although citizens may make direct normative claims upon

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<sup>42</sup> van der Ven, “Socializing”; Hevina Dashwood, “CSR Norms and Organizational Learning in the Mining Sector,” *Corporate Governance* 12:1 (2012): 118-138.

<sup>43</sup> David Crowther. “Stakeholder Perspectives on Social Responsibility.” in *The Ashgate Research Companion to Corporate Social Responsibility*, ed. David Crowther and Nicholas Capaldi (Hampshire: Ashgate Publishing Limited, 2008), 47-64.

<sup>44</sup> Deanna Kemp et al., “Just Relations and Company-Community Conflict in Mining,” *Journal of Business Ethics* 101:1 (2011): 93-109.

<sup>45</sup> E.g. Bishop, “The Limits”, 121-124.

<sup>46</sup> Dashwood, “CSR Norms”; Dashwood, *The Rise*, 38-45.

corporations, these claims and their CSR responses are not enacted through the facticity of law but through the contention of politics.<sup>47</sup> Thus, corporate social responsibility can be seen as a political tool used to respond to non-legal pressures placed on the corporation by society, allowing the corporation to address social issues that may impede upon its ability to generate profit.

Having understood the inherently political nature of CSR in relation to the profit-maximizing nature of corporations, stakeholders are thus confronted by CSR's ability to address normative social pressures and the role of the state as an enforcer of legal obligations. Yet to frame the state as purely a regulator of corporate activity fails to account for the political economy of global capitalism and the pressure placed upon states to act in the interests of corporations.<sup>48</sup> In relation to mining, this is of particular concern in countries such as Peru and Chile that rely heavily on foreign direct investment in extractive industries for much of their economic output and government revenue, meaning that these governments may avoid imposing business-limiting regulations.<sup>49</sup> Thus, although states may struggle to enforce legal responsibilities upon corporations, through CSR initiatives companies attempt to acknowledge and address the contentious claims made upon them by societies through direct normative engagement in order to maximize profits. CSR therefore alters the relationships of contention

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<sup>47</sup> Habermas, *Between*; Tilly, *Regimes*.

<sup>48</sup> E.g. Hernan Fisse and Clive Thomas, "The Chilean Big Business Lobby: A Long Standing and Major Influence on Public Policy," *The Journal of Public Affairs* 14:3 (2014): 310-330; Liisa North and Ricardo Grinspun, "Neo-extractivism and the New Latin American Developmentalism: The Missing Piece of Rural Transformation," *Third World Quarterly* 37:8 (2016): 1494-1496.

<sup>49</sup> Rosemary Thorp, "The Challenges of Mining Based Development in Peru," in *The Developmental Challenges of Mining and Oil: Lessons From Africa and Latin America*, ed. Rosemary Thorp et al., (Great Britain: Palgrave Macmillan, 2012), 110-125; Enrique Calfucura, et al., "Natural Resource Extraction: The Good, the Bad and the Ugly," *Americas Quarterly* Winter Special Section (2013): 1-25; Javier Arellano-Yanguas, "Aggravating the Resource Curse: Decentralisation, Mining, and Conflict in Peru," *Journal of Development Studies* 47.4 (2011): 617-638.

and accountability that exist between citizens and states by introducing the corporation as a powerful actor capable of acting outside of legal institutions.

### Chapter 3: State, Society, and Mining in Chile and Peru

The way actors experience relationships of power within a given society cannot be separated from the historical memories and knowledges they inherit.<sup>50</sup> Histories of security, representation, and violence influence the ways in which citizens interact with the societies and states that surround them, providing context for action and incentives for differing forms of political contention.<sup>51</sup>

Chile and Peru provide illuminating cases of state violence and participation, as countries of the global South that have both experienced authoritarian military governments during the 1970s and a period of stable democratic government in the 21<sup>st</sup> century. Both countries have similar histories of colonization, indigenous and land-based inequality, and are both embedded into the global political economy of natural resource extraction. Indeed, Chile and Peru provide excellent cases of comparison as similar countries affected by large-scale industrial mining through which contention and corporate social responsibility can be analyzed.

The variation in Chile and Peru's histories of political contention is also essential to this comparative analysis. Throughout the 20<sup>th</sup> century, Chile and Peru have experienced divergent forms of violence and representation that continue to determine relationships among citizens and attitudes toward the state. Coinciding with these fundamental variations, citizens in each country have made claims upon corporations and states to respect existing livelihoods and environments in the face of industrial natural resource extraction.

#### 3.1: Resource Extraction In Latin America

The recent global commodity boom beginning early in the 2000s, in combination with a period of growing stability in many Latin American countries brought about large amounts of

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<sup>50</sup> Tilly, *Regimes*, 39-41, 89.

<sup>51</sup> Ibid.

foreign direct investment in the natural resource sectors of resource rich, market oriented countries such as Peru and Chile.<sup>52</sup> While these countries have histories of resource extraction, particularly through mining, natural resource development in the 21<sup>st</sup> century has occurred within a context of expanded globalization and the increased presence of multinational corporations. These corporations are pushing their activities farther into previously unindustrialized areas of developing countries, acquiring titles to lands that are already inhabited by communities that frequently lack legal relationships of property to their territories.<sup>53</sup> As mining is an inherently geographic and territorial activity – minerals must be extracted from where they are located upon the earth – issues of land, territory, and the intrinsically connected issue of sovereignty are highly visible realms of contestation in relation to resource development.<sup>54</sup> Industrial mining also makes use of large amounts of water, and thus has the ability to create contention over access to water as operations expand into zones of agriculture and human habitation.<sup>55</sup> Such issues are not confined to the particular histories of state and society in a given country, but present challenges for communities throughout much of the world.

The economies of both Chile and Peru depend heavily on foreign investment in the mining sector. Chile is the world's largest producer of copper and the 20<sup>th</sup> largest producer gold, extracting roughly 1.3 million ounces of gold in 2015.<sup>56</sup> The Chilean mining sector accounts for

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<sup>52</sup> Leire Urkidi and Mariana Walter, "Dimensions of Environmental Justice in Anti-Gold Mining movements in Latin America," *Geoforum* 42 (2011): 683.

<sup>53</sup> Piergiorgio Di Giminiani, "The Becoming of Ancestral Land: Place and Property in Mapuche Land Claims," *American Ethnologist* 42:3 (2015): 490-503.

<sup>54</sup> Anthony Bebbington et al., "Mining and Social Movements: Struggles Over Livelihood and Rural Territorial Development in the Andes," *World Development* 36:12 (2008): 2888-2905. Agostina Costantino, "Land Grabbing in Latin America: Another Natural Resource Curse?," *Agrarian South: Journal of Political Economy* 3:1 (2014) 17-43.

<sup>55</sup> Jen Ross, "Glaciers Under Threat by Mining in Chile," *NACLA Report on the Americas* 39:3 (2005): 16-19.

<sup>56</sup> The United States Department of Commerce, "Chile Country Commercial Guide - Chile, Mining Sector," *Export.gov* October 25, 2016 <https://www.export.gov/article?id=Chile-Mining-Sector> (Accessed March 31, 2017); World Gold Council, "Where Gold Mining Occurs: Interactive Gold Mining Map," *gold.org*. <http://www.gold.org/gold-mining/where-gold-mining-occurs/interactive-gold-mining-map> (Accessed April 7, 2017).

roughly 12% of the country's GDP, and 55% of the country's total exports.<sup>57</sup> Foreign investment in Chile's mining industry is made attractive by the country's strong property rights entrenched in the 1980 constitution, bringing in over \$20 billion in foreign direct investment in 2015, 45% of which was in the mining sector.<sup>58</sup> Peru is also a significant mining country globally as the world's 6<sup>th</sup> largest producer of gold, extracting 5,456,000 ounces of gold in 2015 – valued at over \$7 billion at current market prices.<sup>59</sup> Peru has liberalized its economy, and has provided more opportunities for private investment by making over 70% of its total territory available for resource development.<sup>60</sup> Mining accounts for 30% of government revenue in Peru, and was responsible for 24% of the country's \$7.6 billion in foreign direct investment in 2014.<sup>61</sup> The state and economy in Peru and Chile are deeply connected to the global mining industry and influenced by the political economy of extractive resource development.

Global political economies of resource development and the national economic importance of extractive industries in Chile and Peru are also embedded into the livelihoods of the commonly rural agricultural communities whose lands are the very spaces in which resource extraction occurs.<sup>62</sup> Issues of land are particularly complex in Latin America where a number of countries, including Chile and Peru undertook land reforms during the 1960s in order to redistribute once privately-held large land holdings to landless peasant farmers, creating a patchwork of small-holdings whose legal status have been circumvented by states and

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<sup>57</sup> The United States Department of Commerce, "Chile".

<sup>58</sup> Santander Trade Portal, "Chile: Foreign Investment," *santandertrade.com* <https://en.portal.santandertrade.com/establish-overseas/chile/foreign-investment> (Accessed April 7, 2017).

<sup>59</sup> World Gold Council, "Where Gold Mining Occurs".

<sup>60</sup> Al Jazeera, "Law of the Jungle: A Peruvian Indigenous Leader Fights Against the Destruction of the Rainforest and Accusations of Murder," *Al Jazeera* June 17, 2014.

<http://www.aljazeera.com/programmes/witness/2014/06/law-jungle-20146179610427913.html> (Accessed April 8, 2017).

<sup>61</sup> Peru Reports, "Foreign Direct Investment," *perureports.com* <http://perureports.com/foreign-direct-investment-fdi/> (Accessed April 7, 2017).

<sup>62</sup> Nicholas Cuba et al., "Extractive Industries, Livelihoods, and Natural Resource Competition," *Applied Geography* 54 (2014): 250.

corporations.<sup>63</sup> Cuba et al. note that extractive industries are inherently concerned with land, but frequently make ownership claims upon territories that are already inhabited and provide economic, environmental, and social sources of livelihood to their inhabitants.<sup>64</sup> In impoverished areas such as Cajamarca, the region in which the Yanacocha mine is located, the acquisition of land by corporations infringes upon the ability of local communities to access the natural capital that is critical for the maintenance of livelihoods through agriculture.<sup>65</sup> Further, state based property rights are often incommensurable with indigenous understandings of land, meaning that while indigenous groups struggle to assert land claims through legal structures, these same structures greatly facilitate the dispossession of these lands by recognizing the legal knowledges of corporations.<sup>66</sup> Contentious claims regarding access to land and territory thus centre prominently amongst communities throughout Latin America as extractive corporations continue to expand their operations.

The availability of clean water in areas in which mining occurs is an issue closely related to land claims as rural and agricultural communities often rely on natural water supplies. Water has been at the forefront of recent debates over mining in Latin America, fuelling anti-mining sentiments while attracting substantial attention from the mining industry as an area in which CSR innovation can reduce contention.<sup>67</sup> Modern open-pit gold mines use large amounts of water to control dust and air pollution during ore extraction, then mix water with chemicals such

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<sup>63</sup> Wendy Coxshall, "When They Came to Take Our Resources': Mining Conflicts in Peru and Their Complexity," *The International Journal of Social and Cultural Practice* 54:1 (2010): 41.

<sup>64</sup> Ibid.

<sup>65</sup> Jeffrey Bury, "Livelihoods in Transition: Transnational Gold Mining Operations and Local Change in Cajamarca, Peru," *The Geographical Journal* 70:1 (2004): 80-82.

<sup>66</sup> Piergiorgio Di Giminiani, "The Becoming of Ancestral Land: Place and Property in Mapuche Land Claims," *American Ethnologist* 42:3 (2015): 490-500.

<sup>67</sup> International Finance Corporation and the International Council on Mining and Metals, "Shared Water, Shared Responsibility, Shared Approach: Water in the Mining Sector," *International Finance Corporate and the International Council on Mining and Metals* [https://www.ifc.org/wps/wcm/connect/ee079cb5-222c-4fe7-8844-8210ac77f0dc/170321\\_ICMM-IFC\\_shared-water-shared-responsibility+FINAL+FINAL+FINAL.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/ee079cb5-222c-4fe7-8844-8210ac77f0dc/170321_ICMM-IFC_shared-water-shared-responsibility+FINAL+FINAL+FINAL.pdf?MOD=AJPERES) (Accessed April 9, 2017).



as cyanide in a “leaching” process that involves moving solutions through the ore in order to separate rocks and other minerals from the gold being produced.<sup>68</sup> The chemical slurry that remains is then typically stored in large tailings ponds. Throughout this process, water is taken from sources surrounding the mine, contaminated, and then returned into the environment.<sup>69</sup> The inherent dangers of the chemical contamination of existing water sources, as well as the strains placed upon the local environments and the decreased availability of water for use by other actors are all extremely salient issues of contention within mining-affected communities as well as environmental activists.<sup>70</sup> Access to water has mobilized anti-mining movements in Cajamarca, where the expansion of Yanacocha was to interfere with Cerro Quilish, the hill from which most of the town’s drinking water flowed.<sup>71</sup> Access to water has also been a major source of contention in the Huasco Valley in Chile, an agricultural region downstream from the Pascua-Lama project.<sup>72</sup>

The political economies, territories, and environments of resource extraction frequently place the interests of host communities at odds with those of states and multinational corporations as the negative consequences of mining accumulate in the localities in which extraction occurs, while many of the benefits are transferred to central governments and foreign investors.<sup>73</sup> The environmental and social effects of these global processes produce contentious politics as mining affected communities attempt to assert their interests in relation to the

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<sup>68</sup> Jen Ross, “Glaciers,” 16-19.

<sup>69</sup> Ibid.

<sup>70</sup> Milagros Sosa and Margreet Zwarteveen, “Exploring the Politics of Water Grabbing: The Case of Large Mining Operations in the Peruvian Andes,” *Water Alternatives* 5:2 (2012): 360-375.

<sup>71</sup> Arce, *Resource Extraction*, 90-98.

<sup>72</sup> Lorena Bottaro et al., “La Politicización del Agua en los Conflictos por la Megaminería: Discursos y Resistencias en Chile y Argentina,” *European Review of Latin American and Caribbean Studies* 97 (2014): 101-103.

<sup>73</sup> Paul Haslam and Pablo Heidrich, “From Neoliberalism to Resource Nationalism: States, Firms and Development,” in *The Political Economy of Natural Resources and Development: From Neoliberalism to Resource Nationalism* eds. Paul Haslam and Pablo Heidrich, (London: Routledge, 2016): 1-2.

extractive interests of corporations and states.<sup>74</sup> However, the contentious claims of citizens are tied to the state histories of inclusion and violence they have experienced, thus influencing the repertoires of contention employed by communities in different states. Chile and Peru provide excellent cases through which these varying histories can be examined.

### 3.2: Chile

The Chilean military coup of 1973 is perhaps the defining feature of Chilean history, marking a clear interruption in the country's relatively stable tradition of democracy stretching back towards the mid-nineteenth century. Prior to 1973, Chile had only minor disruptions in its constitutional order, but had otherwise successfully followed a path of democratic development in which the franchise was expanded to all citizens and politics were characterized by a wide array of ideological competition.<sup>75</sup> Through the first half of the 20<sup>th</sup> century, political competition between traditional conservatives and Chile's growing left-wing parties was highly institutionalized within the country's stable democratic regime.<sup>76</sup> Indeed, Chile's democracy was able to incorporate a range of political parties, including radical parties such as the Chilean Communist Party that was formed along with a growing labour movement made largely of Chile's population of miners.<sup>77</sup> Forms of contention were incorporated into state institutions, and even demands for the revolutionary restructuring of society via socialism or communism were made through democratic elections rather than violence. Throughout this long period of democratic consolidation, citizens were able to make claims upon the state with a low degree of risk that the state would react to these claims in violent or otherwise repressive ways.<sup>78</sup>

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<sup>74</sup> Tilly and Tarrow, *Contentious*.

<sup>75</sup> Arturo Valenzuela, "Chile: Origins, Consolidation, and Breakdown of a Democratic Regime," In *Democracy in Developing Countries: Latin America* eds. Larry Diamond et al. (United States: Lynne Rienner Publishers, 1999): 159-161.

<sup>76</sup> Valenzuela, "Chile," 159-171.

<sup>77</sup> Valenzuela, "Chile," 166.

<sup>78</sup> Ibid.

The 1973 military coup of the democratically elected socialist, Salvador Allende, orchestrated by General Augusto Pinochet was a dramatic rupture in Chile's democratic tradition. Over the following 17 years, the Chilean military dictatorship employed high levels of repression against communist, socialist, and other left-wing citizens it deemed to be enemies of a stable and prosperous Chile.<sup>79</sup> Yet despite high levels of state-perpetrated violence in the early years of the dictatorship, the regime was unable to maintain its legitimacy while employing publicly visible mass violence.<sup>80</sup> During the late 1970s coercive repression was minimized while the regime attempted to legitimate itself through legal and constitutional means due to domestic and international pressure from human rights activists.<sup>81</sup> These pressures culminated in the dictatorship submitting itself to a referendum on its continued rule, resulting in a democratic transition to once-again civilian government.<sup>82</sup>

Memories of contention and violence during the military dictatorship within Chile are deep and long lasting, shaping daily interactions between citizens as well as the forms and nuances of political dialogue.<sup>83</sup> However, as the military dictatorship was an abnormal occurrence in Chile's political history and a definitive contravention of the constitutional order personified by General Pinochet, emotions of fear, resentment, and anger are directed more towards the officials of the regime than towards the state itself.<sup>84</sup> The dramatic transition from a socialist president to a fascist dictator within the Chilean state has politicized individual memories in reference to violence and contention, but re-democratization has neutralized the

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<sup>79</sup> Pablo Policzer, *The Rise and Fall of Repression in Chile*, (Notre Dame: University of Notre Dame Press, 2009): 56-67.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid; Robert Barros, *Constitutionalism and Dictatorship: Pinochet, the Junta, and the 1980 Constitution*, (Cambridge: Cambridge University Press, 2002): 308-325.

<sup>82</sup> Robert Barros, *Law and Dictatorship*, (Port Chester: Cambridge University Press, 2002): 1.

<sup>83</sup> Michael Lazzara, *Chile in Transition: The Poetics and Politics of Memory* (Gainesville: University Press of Florida, 2006), 1-11.

<sup>84</sup> Steven Stern, *Remembering Pinochet's Chile: On the Eve of London 1998*, (Durham: Duke University Press, 2004): 39-50.

state; although limiting the degree to which state institutions are capable of incorporating highly differentiated political views.<sup>85</sup> Chile's post-dictatorship democracy remains broadly inclusive and capable of institutionalizing political competition. Memories of violence in Chile therefore relate more to fellow citizens and politicians than they do to the institutions of the state, allowing the state to remain a relatively neutral and trusted realm through which contentious claims can be pursued.

### 3.3: Peru

Unlike Chile, Peru has not experienced a long history of stable and generally inclusive democracy, but has instead struggled with poor representation of indigenous populations in formal political institutions and the Maoist guerrilla insurgency of the Shining Path.<sup>86</sup> Peru has oscillated between civilian and military rule, with its most recent military coup perpetrated in 1968, the return of democratic civilian government in 1980, Alberto Fujimori's self-coup of 1992, and a period of relatively stable democracy over the past 17 years. The populist tendencies of Peruvian political parties and the austerity policies implemented by elected officials along with decades of economic mismanagement have caused Peruvians to be distrustful of not only one particular politician or party, but of the ability of the state to solve problems more generally.<sup>87</sup> Rather than being able to incorporate radical political ideologies into democratic institutions, communist politics in Peru have been enacted outside of the state. Indeed, the extra-institutional politics of the Shining Path perpetrated acts of terror against citizens and the state

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<sup>85</sup> E.g. Alexander Wilde, "Interruptions of Memory: Expressive Politics in Chile's Transition to Democracy," *Journal of Latin American Studies* 31 (1999): 473-500.

<sup>86</sup> Deborah Yashar, "Contesting Citizenship: Indigenous Movements and Democracy in Latin America," *Comparative Politics* 31.1 (1998), 23-42.

<sup>87</sup> Moises Arce, *Resource Extraction and Protest in Peru*, (Pittsburg: University of Pittsburg Press, 2015): 27-43.

throughout much of the 1980s and 1990s, while multiple governments have made use of mass violence against internal actors deemed to be a threat to the state.<sup>88</sup>

Peru's human rights record is not one of violence under authoritarianism and peaceful civilian rule, but has instead been consistently poor, with state-perpetrated violence being much more severe during periods of civilian rule than under military rule in the 1970s and 1980s.<sup>89</sup> Subsequently, citizens that have experienced violence under multiple regimes cannot attribute that violence to the illegitimate usurpation of state power by unelected officials, as is the case in Chile. Instead, there is little distinction between "legitimate" and "illegitimate" governments. During the insurgency of the Shining Path, neighbours in rural areas were pitted against one another, while the civilian governed army assaulted communities throughout the countryside in an effort to eradicate the communist presence.<sup>90</sup> Guerrilla insurgents and the military counterinsurgency served to undermine the relationship between rural citizens and the state, while simultaneously creating an environment of highly violent extra-institutional forms of contention.<sup>91</sup>

Violence, and particularly violence enacted by an unrepresentative and unaccountable state has come to dominate memories of contention in the same rural areas of Peru that currently find themselves at the forefront of the extractive frontier.<sup>92</sup> Unlike Chile, where contention has been historically institutionalized and the state has, barring the dictatorship, been generally benevolent towards citizens, repertoires of contention in Peru are frequently extra-institutional

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<sup>88</sup> Ibid.

<sup>89</sup> Max Cameron and Philip Mauceri. *The Peruvian Labyrinth: Polity, Society, Economy*, (University Park: The Pennsylvania State University Press, 1997) 2.

<sup>90</sup> Kimberley Theidon, "Justice in Transition: The Micropolitics of Reconciliation in Post-war Peru," *The Journal of Conflict Resolution* 50 (3) (2006): 433-457.

<sup>91</sup> Tilly, *Regimes*, 209-211.

<sup>92</sup> Theidon, "Justice"; Tilly, *Regimes*, 209-211.

and are enacted as direct violence between the state and its population.<sup>93</sup> Although other societal actors such as the Shining Path have been responsible for violence throughout Peru's history, as Theidon argues, "the armed representatives of the state have neither been punished nor forgiven".<sup>94</sup> Thus, when confronted with comments by government officials that environmental activists are terrorists, memories of state-perpetrated violence cause citizens to be hesitant of the ability of state institutions to address their concerns related to mining, while also generating emotions of fear and anger towards those institutions.<sup>95</sup>

In Chile and Peru, as in much of the global South, the global political economy of natural resource extraction intersects with the particular histories of violence and representation within each state. As communities at the forefront of industrial mining experience the social and environmental harms of extraction, they defend their interests by directing contentious claims towards the actors accountable. Although Chilean and Peruvian citizens face similar conditions of resource extraction, the particular histories of violence of each state greatly influence the ways in which mining-affected communities experience relationships of power with the state. Chileans are thus willing to engage in contentious politics with the state, knowing that the risk of a violent response is low, while their neighbours in Peru perceive the state as a violent and unaccountable actor incapable of responding to their contentious claims.<sup>96</sup> These divergent relationships are critical to understanding why repertoires of contention vary in the cases examined below.

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<sup>93</sup> Tilly, *Regimes*, 209-211. The Chilean state has at times acted violently towards the Mapuche indigenous communities of southern Chile, but this population is not the subject of this work.

<sup>94</sup> Theidon, "Justice," 454.

<sup>95</sup> David Hill, "What Is Peru's Biggest Environmental Conflict Right Now?," *The Guardian* June 8, 2015 <https://www.theguardian.com/environment/andes-to-the-amazon/2015/jun/08/tia-maria-perus-biggest-environmental-conflict-right-now> (Accessed April 6, 2017).

<sup>96</sup> Chowdhury, *Expectations*, 20-22.

## Chapter 4: When The Mines Come To Town

The cases below have been selected in order to identify critical differences among the repertoires of contention employed by mining-affected communities while maintaining a number of similarities across cases for a more robust comparison. This section also makes use of a counterfactual case in order to test the falsifiability of the causal argument.<sup>97</sup> Each case is an example of a large-scale, industrial gold mining project operated by one of the world's two largest mining companies – Barrick Gold and Newmont Mining Corporation. As the corporations involved are leaders in the global mining industry, they have the capacity to implement wide-ranging CSR programs that have the power to deeply affect the communities in which they operate.<sup>98</sup> Each mine is located in a primarily rural, agricultural, and indigenous region of either Chile or Peru, and each affected community has experienced similar challenges in relation to resource extraction. However, the context of state-perpetrated violence varies significantly between Chile and Peru, shaping the ways in which each community analyzed has enacted contentious claims in relation to the corporation and state involved.

### 4.1: Pascua-Lama – Barrick Gold – Chile

Barrick Gold's Pascua-Lama mine is located on the Chilean side of the Chilean-Argentinian border at the summit of the Huasco Valley. The Valley lies to the south of the Atacama Desert, and relies on runoff from glaciers located at the proposed mining site to provide water throughout the typically arid region.<sup>99</sup> Located under the glaciers at the head of the valley are an estimated 15 million ounces of gold and 675 million ounces of silver, making these

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<sup>97</sup> Gary King, Robert Keohane and Sidney Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research*, (Princeton: Princeton University Press, 1994).

<sup>98</sup> Dashwood, *The Rise*.

<sup>99</sup> Li, "The Defeat".

reserves one of the largest potential mining developments in Latin America.<sup>100</sup> Since the project was first proposed, concerns over water have been the main source of opposition for the agricultural communities living downstream from the mine.<sup>101</sup> Those concerned about the environmental and social consequences of the mine have organized opposition against the project, and indigenous communities have submitted legal challenges against Barrick in national and international courts.<sup>102</sup> In return, Barrick has undertaken a complex strategy of community engagement and CSR initiatives designed to reduce the concerns of, and develop consent from local communities towards its extractive operations.<sup>103</sup> Yet despite Barrick's CSR efforts, citizens have petitioned the government to stop the project; and following an environmental assessment conducted by Chile's environmental regulator in 2013, Barrick's operating licence was suspended and the company was fined \$16 million for regulatory infringements.<sup>104</sup> Barrick has not resumed construction of the mining operation, and Pascua-Lama is considered to be a stalled project.<sup>105</sup> In 2015 the Chilean mining regulator granted the project a temporary closure permit that allowed Barrick to suspend maintenance operations such as water quality testing.<sup>106</sup> However, ruling in favour of a local environmental group, Chile's Supreme Court revoked this permit in March of 2017, thereby forcing Barrick to continue maintenance of the project that has never produced an ounce of gold.<sup>107</sup>

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<sup>100</sup> Forbes, "A Look At Barrick Gold's Pascua Lama Project," *forbes.com* September 11, 2014 <https://www.forbes.com/sites/greatspeculations/2014/09/11/a-look-at-barrick-golds-pascua-lama-project/#6f14d92d7f7f> (Accessed April 9, 2017).

<sup>101</sup> Urkidi and Walter, "Dimensions".

<sup>102</sup> Adrienne Wiebe, "A Problematic Process: The Memorandum of Understanding Between Barrick Gold and Diaguita Communities of Chile," *Mining Watch Canada* September, 2015 [http://miningwatch.ca/sites/default/files/barrick\\_mou\\_pascua\\_lama\\_eng\\_15sep1015.pdf](http://miningwatch.ca/sites/default/files/barrick_mou_pascua_lama_eng_15sep1015.pdf) (Accessed April 9, 2017).

<sup>103</sup> Jorge Porter, "Barrick Bets on CSR Initiatives to Counteract Opposition to Pascua Lama," *BNamericas* April 4, 2011 <https://subscriber.bnamericas.com/Subscriber/en/news/mining/barrick-bets-on-csr-initiatives-to-counteract-opposition-to-pascua-lama> (Accessed April 8, 2017).

<sup>104</sup> Li, "The Defeat".

<sup>105</sup> Ibid.

<sup>106</sup> *Diario Financiero*, "Corte".

<sup>107</sup> Ibid.



During the mid 2000s, prior to Pascua-Lama's final regulatory approval from the Chilean government, the company conducted over 1000 community meetings and attempted to engage a variety of stakeholders in the development of the project.<sup>108</sup> Barrick also partnered with a number of regional development associations and provided funding for infrastructure, health and education programs.<sup>109</sup> The company implemented a number of environmental improvements to its operations, committing to transparent water quality monitoring, even in zones outside of its property.<sup>110</sup> Barrick further allocated \$60 million over 20 years to improve the irrigation infrastructure of the region and cover the cost of losses incurred by farmers due to the adverse effects of the mine on water quality.<sup>111</sup>

Although Barrick's CSR initiatives attempted to provide tangible social, economic, and environmental goods to local communities, many locals still opposed the mine, citing threats to glaciers and water supplies as threats to their livelihoods.<sup>112</sup> In 2006 the Chilean government rejected Barrick's plans to relocate glaciers, setting a precedent that led communities surrounding the mine to recognize the state as an actor that is capable and accountable.<sup>113</sup> Local communities responded by creating civil society organizations that engaged with the state to hold Barrick accountable. Indigenous and environmental groups such as the Huasco River Surveillance Board brought environmental claims to court using reports produced by Chile's environmental regulator, making use of state legal institutions to enact contentious claims.<sup>114</sup>

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<sup>108</sup> Porter, "Barrick Bets".

<sup>109</sup> Barrick Gold, "Reporte".

<sup>110</sup> Barrick Gold, "Reporte," 41.

<sup>111</sup> Ibid.

<sup>112</sup> Leire Urkidi, "A Glocal Environmental Movement Against Gold Mining: Pascua Lama in Chile," *Ecological Economics* 70 (2010): 219-227.

<sup>113</sup> Ricardo Acuna, "Barrick's Gold: Canadian Mine Threatens a Chilean Watershed," *Canadian Dimensions* October 29, 2006 <https://canadiandimension.com/articles/view/barricks-gold-canadian-mine-threatens-a-chilean-watershed-ricardo-acuna> (Accessed July 6, 2017).

<sup>114</sup> Ros, "Glaciers".

Barrick reacted to the state-based legal accountability imposed upon it by engaging with communities in ways that circumvent state-based accountability. For example, the company negotiated memorandums of understanding with indigenous groups that supported its operations in an effort to self-regulate and direct contentious claims through voluntary CSR mechanisms.<sup>115</sup> Yet despite Barrick's attempts to create extra-legal accountability, local communities chose to enact contentious claims through the Chilean state, an actor capable of nullifying corporate self-accountability.<sup>116</sup>

Barrick's CSR programs at Pascua-Lama were unable to redirect the contentious claims of citizens affected by mining away from the state and towards the corporation. Rather than communities engaging in contentious politics through extra-legal corporate mechanisms, these claims were translated into state-based accountability. Barrick Gold as a multinational corporation was therefore unable to assert its interests directly from its position of power vis-à-vis rural Chilean farmers, as mining affected communities were able to engage with trusted state institutions to enact their claims. Chile's history of inclusive and responsive democratic institutions thus effectively negated Barrick Gold's CSR-based accountability.

#### 4.2: Yanacocha – Newmont Mining Corporation – Peru

The Yanacocha mine, majority owned and operated by Nevada-based Newmont Mining Corporation, sits in the hills above the town of Cajamarca among primarily rural peasant farming communities.<sup>117</sup> The mine has been in operation since 1993 and produces roughly 336,000 ounces of gold each year.<sup>118</sup> In 2004, Newmont sought to expand the operation to an adjacent mountain called Cerro Quilish under the name Minas Conga. The company received regulatory

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<sup>115</sup> Newell, "Citizenship," 542, 548.

<sup>116</sup> Ibid.

<sup>117</sup> Bury, "Livelihoods".

<sup>118</sup> Newmont, "Operational Facts," December 2016 <http://www.newmont.com/operations-and-projects/south-america/yanacocha-peru/operation-facts/default.aspx> (Accessed April 10, 2017).

approval from the government for the \$4.8 billion project and began exploration on the site in 2004.<sup>119</sup> Cerro Quilish is the main aquifer for the town and surrounding communities, and farmers and environmental activists as well as residents of the town of Cajamarca have raised concerns over access to water.<sup>120</sup> Throughout the life of the Yanacocha mine, Newmont has invested over \$1 billion dollars in environmental and social CSR programs, and has engaged with local development agencies in order to assist the communities of this highly impoverished area.<sup>121</sup> Yet despite Newmont's CSR strategies, efforts to expand operations in Cajamarca have been met with violent protests and lethal clashes between police and protestors.<sup>122</sup> Although Newmont has never been forced to suspend operations by the Peruvian government, the company has voluntarily suspended operations on several occasions in response to clashes with locals directly protesting the mine's operations.<sup>123</sup> Thus, the corporation has responded directly to the contentious claims of communities without being forced to do so by the Peruvian state.

Newmont's CSR strategy at Yanacocha was similar to that of Barrick's, creating number of education programs, social services, and infrastructure projects to distribute mining wealth throughout the community.<sup>124</sup> These development projects have been particularly noticeable in Cajamarca, where state institutions have been unable to translate resource wealth into meaningful development.<sup>125</sup> Yanacocha employs water-monitoring practices similar to Barrick in

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<sup>119</sup> Deborah Poole and Gerardo Renique, "Peru: Humala Takes Off His Gloves," *North American Congress on Latin America, Report on the Americas* (2012): <https://nacla.org/article/peru-humala-takes-his-gloves> (Accessed April 9 2017).

<sup>120</sup> Arce, *Resource Extraction*, 90-98.

<sup>121</sup> Newmont, "Yanacocha: Overview," *Newmont Mining Limited* March 13, 2016 <http://www.newmont.com/operations-and-projects/south-america/yanacocha-peru/overview/default.aspx> (Accessed April 10, 2017).

<sup>122</sup> Bury, "Livelihoods"; Gifford et al., "Building"; Scott, *Weapons of the Weak*.

<sup>123</sup> Owen Kemp et al., "Listening to the City of Cajamarca: A Study Commissioned by Minera Yanacocha," *Centre for Social Responsibility in Mining, Sustainable Minerals Institute, The University of Queensland*. (Brisbane: University of Queensland, 2013).

<sup>124</sup> Ibid.

<sup>125</sup> Arellano-Yanguas, "Aggravating".

an effort to be transparent, while adhering to self-enforced standards that have won the company awards from the Peruvian government.<sup>126</sup> Indeed, Newmont's CSR practices have drawn the attention of local communities in an area that has been underserved by the state, allowing the company to act as a publicly accountable institution.<sup>127</sup>

However, Newmont has also signed security contracts with the Peruvian government, and has relied on state armed forces to restore order during several protests.<sup>128</sup> This has led to the increased perception that the government and the corporation are simply different institutions representing the same interests – interests that directly challenge the livelihoods of local communities.<sup>129</sup> Indeed, the Peruvian state has repeatedly used force against mining opponents in Cajamarca, within the historical context of state perpetrated violence throughout Peru. Local communities have therefore directed their contentious claims not through state institutions, but towards the only entity that has attempted to hold itself accountable to citizens – Newmont and its CSR practices.<sup>130</sup> Thus, whereas contentious claims were directed through state institutions in relation to Pascua-Lama, Newmont's CSR strategy in combination with an unaccountable and aggressive state resulted in citizens directing contentious claims using extra-institutional methods directly towards the corporation.

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<sup>126</sup> Newmont, "Yanacocha".

<sup>127</sup> Newell, "Citizenship".

<sup>128</sup> Newmont, "Convenio de Prestacion de Servicios Extraordinarios Complementarios a la Funcion Policial Nacional del Peru XIV-Direccion Terretorial de la Policia – Cajamarca Y Minera Yanacocha SRL.," *Newmont Mining Corporation Ltd*, March 31, 2011 [http://www.newmont.com/files/doc\\_downloads/south\\_america/yanecocha/Convenio-de-Prestaci%C3%B3n-de-Servicios-entre-la-Polic%C3%ADa-Nacional-del-Per%C3%BA-y-Minera-Yanacocha-S-R-L.pdf](http://www.newmont.com/files/doc_downloads/south_america/yanecocha/Convenio-de-Prestaci%C3%B3n-de-Servicios-entre-la-Polic%C3%ADa-Nacional-del-Per%C3%BA-y-Minera-Yanacocha-S-R-L.pdf) (Accessed May 22, 2015); Claps, Luis Manuel Claps, "Peru: Police Abuse in the Pay of Mining Companies." *North American Congress on Latin America*. December 16, 2013. <https://nacla.org/blog/2013/12/16/peru-police-abuse-pay-mining-companies> (Accessed April 14, 2017).

<sup>129</sup> Kemp et al., "Listening".

<sup>130</sup> Triscritti, "Mining," 443.

#### 4.3: Lagunas Norte – Barrick Gold – Peru

Barrick's Lagunas Norte mine, located in the La Libertad region of north-western Peru entered operation in 2005 and produced 435,000 ounces of gold in 2016. The surrounding area of Alto Chicama and the town of Quiruvilca have been previous sites of coal mining, as well home to peasant farmers that make use of the region's lakes to supply water to alpaca herds.<sup>131</sup> Barrick has engaged in CSR initiatives similar to those found in the previous cases, while also conducting environmental impact assessments and water monitoring practices that exceeded Peruvian regulations.<sup>132</sup> Residents in the area have opposed the expansion of the mine towards lakes located on the company's concession lands, although Barrick has not publicly stated any plans for expansion of the project in these areas.<sup>133</sup> The largest conflict surrounding the operation occurred in 2013 when worker protests and environmental concerns stalled operations for a week until negotiations led by the company were able to resolve the dispute.<sup>134</sup>

Barrick's CSR activities in Quiruvilca have focused on education, health, infrastructure and business development. The company has worked with NGOs such as World Vision to help local entrepreneurs start small businesses and diversify the economy surrounding the mine.<sup>135</sup> Barrick also has grievance mechanisms in place that allow communities to file their concerns directly with the company. As a result, Barrick received 149 grievances related to its operations at Lagunas Norte in 2011.<sup>136</sup> This mechanism encourages citizens to address contentious claims

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<sup>131</sup> Environmental Justice Atlas, "Alto Chicama, Peru," *ejatlas.org* August 4, 2014 <https://ejatlas.org/conflict/alto-chicama-peru> (Accessed April 14, 2017).

<sup>132</sup> Marilyn Scales, "Right on the Money at Lagunas Norte," *Canadian Mining Journal* June 1, 2005 <http://www.canadianminingjournal.com/features/right-on-the-money-at-lagunas-norte/> (Accessed April 14, 2017).

<sup>133</sup> MICLA, "Lagunas Norte: Peru," *McGill Research Group Investigating Canadian Mining in Latin America* <http://micla.ca/conflicts/lagunas-norte-2/> (Accessed April 15, 2017).

<sup>134</sup> Gestion, "Levantamiento".

<sup>135</sup> Oved, "Fool's Gold".

<sup>136</sup> Triscritti, "Mining," 444.

through corporate institutions, thus creating direct relationships of accountability.<sup>137</sup> When protests arose regarding worker's wages and water quality in February 2013, Barrick engaged in direct negotiations with the aggrieved groups, and was able to resolve the issue within a week – allowing mining operations to proceed peacefully.<sup>138</sup> In stark contrast to Newmont's strategy of relying on armed state actors to repress protests, Barrick did not incorporate state actors into its conflict resolution strategy, thus distancing itself from a historically dangerous state.<sup>139</sup> Communities were thus willing to enact contentious claims peacefully through CSR-based accountability, even though this strategy does not allow communities to reject mining development outright as was possible in the Huasco Valley. Contradicting criticisms of CSR that advocate for a larger state role in resource governance, Barrick's operations have succeeded at Lagunas Norte specifically because of the lack of state involvement in a country in which many citizens hold memories of oppression and violence in relation to the state.<sup>140</sup> Barrick's distance from the state has therefore allowed local communities to engage with a reasonably capable development agent while avoiding the risks associated with directing contentious claims towards a weak and hostile state as seen in Cajamarca.

#### 4.4: Yes to the Mine, No to CSR?

Two of our cases (Pascua-Lama and Yanacocha) have shown CSR and the mining operation rejected to varying degrees, while in the third (Lagunas Norte), the community has embraced CSR, and with it, the mining operation. In order to isolate the effects of CSR in

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<sup>137</sup> Ibid.

<sup>138</sup> Tiffany Grabski, "Lagunas Norte Social Conflict due to "Misunderstanding" – Barrick Gold," *BNAmericas* February 25, 2013 <https://subscriber.bnamerica.com/en/news/mining/laguna-norte-social-conflict-based-on-a-misunderstanding-barrick-gold> (Accessed April 14, 2017).

<sup>139</sup> Although the evidence compiled here does not provide a direct example of the corporation purposefully excluding the state, finding this evidence would be incredibly difficult as the corporation has an interest in maintaining good relations with the state and state actors would presumably not react well to being told to remove themselves from an area of their jurisdiction.

<sup>140</sup> Ibid.

relation to communities that are receptive to mining development, a case in which mining is able to occur while the community rejects CSR programs must be analyzed.

Identifying such a case is highly problematic, as the acceptance of mining and the acceptance of CSR rest on the same basic interests of the communities in which mining occurs – the economic benefits to be derived from mining development. One would find it difficult to identify, or even construct a counterfactual case in which local communities would be receptive towards the direct economic benefits of mining for surrounding communities, while simultaneously rejecting other economic, social, and environmental goods being offered by the same development in the form of CSR. However, by considering a case in which communities would accept mining development, but reject attempts by the corporation to provide healthcare, education, or environmental protection beyond what is required by law, we can see that the relationships of accountability fostered through CSR would not be created.<sup>141</sup> Such a case would neutralize the political tool of CSR, confining the corporation to a purely economic role as a legal profit-generating entity. Rejecting CSR thus rejects the possibility of the corporation to act normatively, making legal accountability through state institutions the only possible way in which contentious claims can be made upon the corporation.

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<sup>141</sup> E.g. Newell, “Citizenship”; Fabiana Li, “Documenting Accountability: Environmental Impact Assessment in a Peruvian Mining Project.” *PoLAR* 32.2 (2009): 218-236.

## **Conclusion: Weak States, Strong Companies**

Industrial natural resource extraction creates social, economic, and environmental effects upon the communities in which it occurs, generating contention among citizens, corporations, and states. Increasingly, corporations respond directly to the contentious claims made by communities regarding these effects through CSR. As CSR creates extra-legal accountability, it is often criticized for subverting the state's role in development.<sup>142</sup> This poses particular concern for countries throughout the global South that struggle to translate the economic wealth of natural resource extraction into substantial social and economic goods for citizens.<sup>143</sup> However, these criticisms of CSR rarely consider the relationships of accountability that develop when corporations begin to provide public goods to communities in areas of weak state capacity. Further, they fail to consider that state-led development is highly problematic for many citizens of developing countries given histories of poor political representation and state perpetrated violence.<sup>144</sup>

By analysing state histories of representation and violence, this paper has examined how contentious claims can be enacted upon non-state actors that engage in political actions such as the distribution of goods.<sup>145</sup> These relationships have been analyzed using cases from Chile and Peru in which the various communities affected by mining expressed similar social and environmental concerns, while acting upon these normative claims very differently.

In Chile's Huasco Valley, where histories of contention allow for engagement with the state, communities made use of state institutions to assert their claims, despite efforts by Barrick Gold to redirect relationships of accountability through CSR. However, as many citizens have

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<sup>142</sup> Newell, "Citizenship," 551-555.

<sup>143</sup> Newell, "Citizenship," 551-555; Macartan Humphreys, Jeffrey Sachs and Joseph Stiglitz, *Escaping the Resource Curse*, (New York: Columbia University Press, 2007).

<sup>144</sup> Chowdhury, *Expectations*, 20-22.

<sup>145</sup> Tilly, *Regimes*.



negative relationships with the Peruvian state, contention was much less violent when the state was not heavily involved as seen at Lagunas Norte in comparison to the costly actions taken by communities to enact their claims against Yanacocha. At Yanacocha, Newmont's CSR programs directed contentious claims towards the corporation. Yet as Newmont relied on state armed forces to repress contentious claims, communities were forced to engage directly with the corporation through protest and territory occupation. Newmont's reliance on the coercive power of the Peruvian state, an actor with a history of extra-institutional violence, thus invalidated its attempt to direct accountability through voluntary CSR mechanisms.

Given the memories of violence, lack of representation, and administrative incapacity associated with the Peruvian state in rural areas, Citizens in La Libertad and Cajamarca have little reason to believe the state is capable of advancing their interests in relation to mining extraction. The state's willingness to use force against citizens in Cajamarca and other communities opposed to mining has only reinforced this belief. The power relations of resource governance in Peru thus vary drastically from Chile, where rural indigenous communities have been able to direct contention through capable state institutions. While the people of the Huasco Valley have been able to defend their environment and livelihoods in the face of resource extraction by engaging with the state, communities in Peru have not had the same opportunity. Instead, citizens in Cajamarca and La Libertad have directed their contentious claims towards a corporation in a position of de facto accountability. Communities surrounding Lagunas Norte have accepted the environmental damage of mining development in exchange for limited and uneven social and economic development, as they cannot rely upon the regulatory and administrative powers of the state. At Yanacocha, similar state-society relations have led communities to direct contention squarely at the corporation, as the state has not responded to

their claims. Indeed, when the state has been involved, it has acted in opposition to citizens as the coercive arm of the corporation.

As mining corporations engage in CSR, they become increasingly exposed to the repertoires of contention enacted upon them by communities rather than the legal claims made upon them by states. However, criticisms of CSR that identify the problematic nature of private actors distributing public goods tend to focus upon the power of the corporations doing so. Thus, CSR theories have neglected the question of why certain communities accept extra-legal accountability while others demand state-based accountability. This thesis has attempted to explain this theoretical oversight by incorporating the communities and states in which CSR occurs as central actors capable of altering power relations. CSR cannot be understood as simply providing resource governance in areas of weak state capacity, but instead intersects with the histories of state violence and representation that influence repertoires of contention in mining-affected communities. These findings are critical to the future of CSR, and resource governance more generally, as communities may prefer to engage directly with administratively capable corporations rather than risk contention vis-à-vis a weak and hostile state. While circumventing weak states may be in the interests of corporations and communities in the short term, all actors must be cautious of the relationships of accountability developed between societies and private, profit-seeking entities that have not been created or designed to handle the wide ranging claims of diverse societies.

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