Cross-sectoral governance—a comparison of international responses to mining and community impacts

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ABSTRACT

Balancing the roles of mining companies, governmental institutions, and civil society in response to the impacts of mining poses significant challenges to the governance actors involved. Literature on governance and mining has identified cross-sector collaboration as essential in addressing mining impacts by sharing information, resources and responsibilities in order to realise outcomes that cannot be achieved by one sector alone.

Notwithstanding the importance of context-specific conditions, there is value in comparing international experiences of local governance and the management of mining impacts. To date, however, there have been few comparative reviews of the range of structures, strategies and processes adopted to address governance challenges in different settings. Rather, the research has focused on place-based case studies of governance challenges and responses.

This paper presents results of a review of governance models and challenges drawing on two international contexts. The findings are drawn from research exploring cross-jurisdictional governance responses to mining in Australia supplemented by a desk-top survey of Peru. The analysis indicates that actors' economic resources and political power are crucial influences on the forms of collaboration. This is especially true in countries where government decentralisation processes lack concurrent support for local autonomy, authority, and financial resourcing—critical factors in enabling local governments to provide new 'relational' forms of leadership, coordinate development, and mediate among the different interests with respect to resource exploitation. This paper summarises lessons from the cross-jurisdictional analysis and concludes by suggesting conditions that may enable the opportunity potential of resource projects to be realised in various contexts.

INTRODUCTION

There is widespread recognition that a broadening of responsibility and cross-sectoral collaboration is needed to overcome observed limitations of resource-centred economies such as 'patterns of uneven social, economic and regional development' (Neil & Tykkyläinen, 1992p. 4). The arguments for cross-sector collaboration at the local level hinge on four factors: achieving equitable patterns of development (Pollard & du Toit, 2008, Yakovleva & Alabaster, 2003), ensuring authentic democracy responsive to local stakeholders (Fung & Wright, 2001, Bebbington & Bury, 2009), protecting the social license to operate through socially responsible corporate behaviour (Sullivan, 2007), and managing impacts of mining both direct and indirect (Franks, 2009). Such collaborative arrangements are emerging in many regions hosting intensive extractive industries. Hence there is a need to systematically review the different institutions and processes that have been used in various contexts for local management of extractive industries (Devas & Delay, 2006, Christensen & LÆGreid, 2007, Gersovitz, 2009). This paper reports a review of governance models and experiences drawing on two international contexts with intensive resource extraction industry: Australia and Peru. In describing these cases, we firstly make some general statements about the context of mining in each of the national jurisdictions. We then discuss some of the local governance challenges arising in these jurisdictions drawing on primary case study data or secondary source literature. We conclude by drawing out some of the commonalties and differences that emerge from this discussion.

METHOD

This paper draws on two case studies—Australia and Peru—to inform a comparative analysis of cross-sectoral collaboration in the extractive industries. The Australian case study uses data from a multi-year research project exploring governance responses in mining intensive regions in four State jurisdictions of Australia[1]. Given variations between States in Australia, for the purposes of this paper, we focus on the State of Queensland. The initial phase of this study, reported here, involved a review of regulations and policies and interviews with purposively selected representatives of a range of governance actors. The variations observed during the Australian study prompted us to extend our enquiries internationally, drawing on a desk-top survey of available academic and other literature. For this paper we draw on Peru as a comparative case study utilising public domain information from government sources such as the Ministerio de Energia y Minas—Peru, NGOs such as CONACAMI, and the empirical work of a variety of scholars working in the field. Notwithstanding the significant differences between the two countries – for example the Human Development Index ranking for Australia is 2 compared with Peru's 63—in both cases mining is a substantial contributor to the national economy and comprises a significant percentage of each country's GDP—8% in Australia and 7.3% in Peru. The two countries represented by these cases account for a substantial proportion of world mining investment (Bebbington et al., 2008a) although the jurisdictions may vary in attractiveness to

[1] Australian Research Council Linkage Project LP0989162 titled "Local government, mining companies and resource development in regional Australia: meeting the governance challenge". This project is a cross-jurisdictional analysis of governance responses in mining intensive regions in Queensland, Western Australia, South Australia and New South Wales. This is a two-year project scheduled for completion in late 2011.

mining investment (McMahon & Cervantes, 2010). We limit the discussion to mining being undertaken by the large multi-nationals and sizable juniors and do not address the complex situation in respect to artisanal mining.

RESULTS

Case 1: Australia (The State of Queensland case)

Minerals development in Australia is a private sector activity with no state-owned operations, though mineral resources remain the property of the crown. Many mining regions host a number of operations and companies, and across the country as a whole the extractive industries cover a range of commodities, extractive technologies, and downstream processing.

The scale and pace of recent expansion in the sector has affected long-established mining areas and seen the emergence of large-scale mining development in greenfields sites. The resource sector in Australia faces a stringent regulatory framework (Hooke, 2010) that sees mining subject to all three levels of government regulation and a plethora of laws, the majority of which are state-specific, governing the environmental and social behaviour of companies. In Queensland, new developments must comply with 30 separate pieces of legislation as part of the Integrated Development Assessment System under Queensland's Sustainable Planning Act (2009). Further, in addition to these compliance regulations, there is a progressive shift towards addressing social impacts with the recent policy requirement for companies to submit Social Impact Management Plans, or SIMPs, signalling increased scrutiny by the State of company activities intended to mitigate negative social impacts.

Given the scale of the current growth cycle, there has been considerable attention at a state level to ensuring large scale infrastructure, such as ports and rail, are in place to meet the needs of industry. Some of these large-scale infrastructure developments have significant private investment or ownership and may take the form of commercial Public-Private Partnerships between mining developers and the state. However, at the level of social infrastructure development, the arrangements are less commercial, less clearly defined and considerably more decentralised, resulting in governance arrangements that are more collaborative in form, involve multi-levels of government, and are inclusive of community or civil society organisations. The remainder of this Australian case-study will discuss two examples of local, multi-sector collaborations: the first a top-down initiative driven by the State; the second a bottom-up initiative, led by local government and aimed at placing civil society at the heart of community development decision-making.

The first example of multi-sector collaboration is an initiative of the State Government and comprises a series of Local Leadership Groups, established in each of Queensland's major mining provinces under the State's Sustainable Resource Communities policy. One such group is the Bowen Basin Local Leadership Group (BBLLG) located in Central Queensland. This group, which comprises the representatives of the State Government, local mayors, local communities, mining companies, and unions, is funded via a $100 million State budget allocation over three years, supplemented by mining company contributions. This modest scale of funding has enabled the group to go some way towards addressing some of the more acute pressure points in community infrastructure and services such as road development, health services, and youth initiatives. It is noteworthy that most of the priority areas identified by the BBLG fall within the ambit of state government responsibility rather than local government.

Notwithstanding the level of institutional and governmental support enjoyed by the Local Leadership Groups, such groups do not fully satisfy aspirations for greater local agency in development decision-making. Increasingly, residents in host communities are objecting to mining development, their concerns driven by the scale and speed of recent expansion and the impact this is having on their lives. Hence, parallel to the Local Leadership Groups that have the imprimatur of the State, other, bottom-up, cross-sector partnerships have emerged, led principally by local government and mobilised around specific, local issues. An example of such a group can be found in the town of Moranbah, in Central Queensland, a community that is surrounded by underground and open cut coal mines, some of which are now encroaching on the town borders and abut housing. In response to growing community concerns, the council has established a multi-stakeholder reference group focusing on the issue of dust. The group includes three state government departments, the coal industry, union and community representatives, all agreeing that more could be jointly done to manage the cumulative impacts of mining on local amenity. The local government, in this instance, adopted an overt leadership position, leveraged its vertical linkages with the State and mining companies, worked collectively, and performed the role of coordinating actors from different sectors to address the concerns of an increasingly vocal civil society. Notwithstanding local government leadership, the group's efficacy is compromised by long-standing issues of distrust between interest groups arising from historical conflicts.

In summary, Australia is unusual in that the primary jurisdiction over mineral resource development sits with the State rather than the national government. Under current growth conditions top-down control of development is increasingly giving way to cross-sector collaboration through co-managing governance networks. These provide a key role for local government and are used in a number of promising, but so far fragile, initiatives to address concerns of local government and civil society about the uneven distribution of the benefits and negative impacts of the mining industry. The rhetoric of corporate social responsibility (CSR) has heightened community expectations of involvement and agency in decision-making, opening the way for local governments to step-up their response to community interests, buttressed by regulatory developments that go some way towards formalising corporate social investment, and adopt a lead role in mediating the shifting relationships between mining companies and governments in local contexts. Notwithstanding the wealth generated by mining regions, current systems of distributing royalties in most states, including Queensland, leave many local governments struggling with limited financial resources. Their capacity to influence and direct the course of development for communities must, therefore, be located in their capacity to broker relationships, coordinate activities and facilitate information sharing.

Case 2: Peru

In the 1990's the Peruvian Government launched a set of structural reforms for the mining sector aimed at attracting foreign investment. These efforts were consolidated in the enactment of the Mining Investment Promotion Law (1991) (Bastida et al., 2005). The consequential growth of the mining sector has been followed by three key changes in public policies affecting mining activity, namely a new Environmental Impact Assessment (EIA) methodology, decentralisation from State to Local Government, and the Canon Minero, a taxation system under which 50 per cent of mining tax income is allocated to local governments (Bastida et al., 2005, Himley, 2010). Despite these changes, decentralisation processes have for the most part foundered as local governments have neither the management nor human resource capacity to administer the funds accrued to them under the Canon Minero (Bebbington & Bury, 2009, Aaronson, 2009, IDRC, 2003).

The central government commitment to facilitate foreign investment has fuelled heightened expectations of social development. Although in some areas mining income tax represents up to 90 per cent of the total local government budget (Bastida et al., 2005), local governments are still under-resourced and lack transparency and capacity to allocate mining tax income equitably and effectively. Further mining expansion has been accompanied by CSR practices which position the industry as a social development agent (IRDC 2003), a role that for the most part companies have executed via alliances with large NGOs rather than government due to the perceived fragility of governmental institutions. Nevertheless these measures do not counteract community frustration about the advance of mining activity and its impacts on culture and livelihoods (Bebbington & Bury, 2009, Bury, 2003). These political and economic conditions provide the context for the rise of a social movement. Protests are two-fold. First they criticise CSR activities because company social investments are regarded as insufficient to cover all the social needs of impacted communities and serve to legitimise companies' extensive extraction of mineral resources (Himley, 2010). Second, community see themselves excluded from national decision making processes regarding natural resource management notwithstanding the EIA process requires the participation of civil society (IDRC, 2003, Li, 2009). Importantly, civil society distrusts both the public legal framework within which companies operate, and the voluntary CSR activities (Bebbington et al., 2008b, Bury, 2003). Additionally, civil society perceive that, despite the significant royalties flowing to the region under the Canon Minero, local government is unable to represent their interests, negotiate on their behalf or leverage influence over these unsatisfactory central government policies or mining company actions.

In this context, local governance challenges are rooted in local governments' weak record of meeting social needs via a collaborative strategy with mining companies. Even though mining companies are seeking to integrate themselves with social development programmes implemented in operational areas (IRDC 2003), there are obstacles to overcome. Notably, the power imbalance between the companies and local authorities diminishes the leadership capacity of the latter which, along with its limited administrative and management capacity, renders them unable to perform a competent role.

Power imbalances are also found in community–company relations. The success of community organisations' demands depends on their capacity to communicate their claims not only to companies but also to the central government. The power of the community resides in their ability to challenge governmental and institutional discourses of development, mobilised around the defence of their culture and livelihood (Bebbington et al., 2008b, Bury, 2003). Currently, affected communities are organised under the National Confederation of Peruvian Communities affected by Mining Activity (CONACAMI in its Spanish initials), a support network aiming at achieving environmental and social justice. This organisation provides communities with a means to unite and strengthen themselves and their movement, to develop leadership, and to gain the necessary power to be in a position to dialogue with governmental institutions and companies (Bebbington & Bury 2009).

By developing social capital, CONACAMI have shaped the public debate about mining as a driver of national development (Bebbington et al., 2008b, Bebbington & Bury, 2009). The complex relationship between mining companies, local governments, and communities inhibits dialogue and impede attempts at negotiation (Arellano-Yanguas, 2008). Efforts to generate dialogue would require not only a power balance but also strengthening of local governments' capabilities to perform an active role and mediate the relationship between affected communities and mining companies. The lack of power devolution to local governments (Arellano-Yanguas, 2008), and the poor relations between local community leaders and local governments due to distrust impedes local authorities' representation of communities' interests (Arellano-Yanguas, 2008, Bebbington et al., 2008b).

A stronger role for local government would require effective representation of community perspectives and interests and enhanced capacity to manage available resources. Unlike Australia where the State is the dominant governmental actor in mining development, in Peru the National government is paramount and its policy favours intensive foreign investment to deliver a strong and stable national economy. This is proving counterproductive for another goal – decentralisation. Peru has experienced internal conflict because of persistent exclusion of some segments of the population and polarised perspectives on land, water and development (Lemieux, 2010). However, in the absence of an empowered local government, capable of leveraging both horizontal and vertical influence across sectors, the significant financial resources flowing to the region via the Canon Minero will continue to fall short of mediating these conflicts and delivering the development aspirations of local communities.

DISCUSSION

Both the Queensland and Peruvian case studies exhibit recent policy changes as governments seek to cope with the governance challenges posed by resource-based development. In both cases there is an ambition by higher levels of government to maximise their revenues from mining activities but minimise their involvement in direct service delivery to the populace. As well the grade of decentralisation depends on the extent to which authority, responsibility, power and resources are devolved to local governments. However wealth distribution schemes aimed at promoting equitable patterns of development, such as Peru's Canon Minero, can falter if not supported by adequate capacity to mediate interests at the local level, coupled with a strong mandate from all stakeholders. Financial resources are a necessary, but not sufficient, condition for strong local governance. This can be the case when higher levels of government lack the political will or the capacity to devolve responsibilities to local government and back that decision with resources. Equally important is that robust democratic processes ensure that local government has a mandate from a broad cross-section of local residents to effectively represent their interests.

In addition we found that the cases cover contrasting inter-sector relationships and structures. In Australia public-private interaction mainly takes the form of co-management by governance networks. Whereas in Peru the private sector takes much of the initiative in providing local infrastructure and services, albeit often through strategic alliances with large NGOs due to the limited capacity of governments at all levels. Our analysis suggests that in each of these countries both central governments and large corporations traditionally operate unilaterally, in competitive, hierarchical fashion inimical to more collaborative ways of operating. Where there has been an impetus to foster vertical linkages between different levels of government and horizontal linkages with other sectors and to pursue common cause in ways not governed by contractual arrangements, such as in the example of Bowen Basin Local Leadership Group, the situation comes closer to balancing the roles and interests of mining companies, governmental institutions and civil society.

Finally, the results highlight the challenges of ensuring equitable patterns of development even in resource-rich countries since some sections of society in both nations are economically marginalised.

This is the case despite the fact that in each country mining companies make some corporate social investments and central governments have schemes for directing financial benefits to mining regions. However these various initiatives can be uncoordinated and characterised by extreme distrust between sectors. One confounding factor seems to be that there is often a range of conflicting interests and needs in affected communities and no organisation with the managerial capacity and the trust and established relationships with all interest groups and all sectors to effectively mediate these differences. Despite these different contexts and different prospects for change, some core propositions can be made about ways to achieve coordinated development of infrastructure and services in regions hosting mining projects.

In particular, governance by co-managing networks requires not just cross-sectoral collaboration but also new forms of leadership and so suggests a specific role for local governments in working with other sectors towards equitable local development (Börzel & Risse, 2010). This role is particularly pertinent for mining-affected communities since they are often remote from centres of other levels of government. This concurs with Sullivan's (2007) suggestion that local government could bring distinct competencies to collaborative governance arrangements in exercising new 'relational' forms of leadership through a role as facilitator and broker (see also McGuire, 2006). Yet the proposed leadership roles are premised on local governments having new powers or authority (through decentralisation to regional and local governments) and having adequate budgets for public services (Sullivan, 2007).

CONCLUSION

In both contexts reviewed national (or state) level governments have established development regimes to regulate the impacts of mining activity in concert with companies and in some cases host communities. Yet affected local governments, while often faced with added responsibilities for infrastructure or service provision, have few resources and limited power. More collaboration between the private sector and local and regional levels of government and of civil society is desirable but difficult to achieve given lack of national will and fraught social and political legacies. Particularly challenging are power asymmetries that marginalise local government and parts of civil society and deny equitable rights to all citizens including those affected by mining activity.

There is no panacea to the challenges associated with mining development and, given the range of variables outlined above no single formula can ensure good governance of mining-affected localities. However, the review indicates some of the factors influencing the likelihood of achieving cross-sector collaboration where companies, governments and civil society stakeholders are sharing information, resources, responsibilities and activities to ensure net benefits from mining development at the local level. Particularly it suggests that local governments in mining-affected regions can play a crucial leadership role in creating the conditions for host communities to participate in the benefits of mining. At the same time the findings should prompt mining companies to review their approach and to prioritise capacity building and empowerment of local institutions and involvement in multi-sector governance networks so as to reinforce local efforts and aspirations rather than exacerbate social and central-local divisions or fill a service vacuum.

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