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Corporate Framing of Sustainability in the Mineral Sector: “New Governance” Insights from South Africa

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Introduction

More than thirty years ago, the Brundtland Commission report, Our Common Future, defined sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (World Commission on Environment and Development 1987, 44). This definition has become the key reference point for conceptualizing sustainability among several stakeholders, including policymakers and corporate decision-makers. Following the report, the Rio de Janeiro Earth Summit was held in 1992 with its resulting action plan Agenda 21. Lins and Horwitz (2007, 16) note that this conference enabled sustainability issues to move “from the fringe to the mainstream.” They also point out that three key pillars of sustainable development emerged at the Summit – economic, environmental, and social – later on referred to as the “triple bottom line” by John Elkington (1998). These three pillars, serving as the driving force for industry growth and risk minimization, must support each other to maintain the overall well-being of a corporation.

What has become more notable is the addition of governance to the list of key factors, hence the notion of “triple bottom line plus one” (cited in Lins and Horwitz 2007). Within this context, we have seen the emergence of various sustainability initiatives in the mining industry and efforts by transnational mining firms (TMFs) to embed sustainability in their management practices. The early initiatives, mostly launched in the late 1990s, include the Berlin II Guidelines, the World Bank’s Extractive Industries Review (EIR), and the Global Mining Initiative (GMI) by CEOs of mining companies, which served as the foundation for the International Council of Mining and Metals (ICMM), and the Global Reporting Initiative (GRI) in the 2000s (Lins and Horwitz 2007). From a global perspective, it is important to note that the formation of the ICMM in 2001 and the Mining, Minerals, and Sustainable Development (MMSD) project in the following year, served as the catalyst for the mining
sector to position itself within the sustainability agenda and to actively frame their corporate governance policies going forward (Dashwood 2012; Han Onn and Woodley 2014).

While these noted efforts of the mining industry appear somewhat commendable, there have been several controversies and reports of business's complicity in human rights abuses despite evidence pointing to the socio-economic contributions of TMFs (Wettstein 2009; Payne and Pereira 2016). Most of these reports of corporate complicity and controversies focus on security and human rights issues, such as environmental devastation or injustice, allegations of human rights violations, murder, and sexual abuse, among others (see Chapters 10 and 12 in this volume). As a result, new global governance standards, such as the Kimberley Process Certification Scheme (KPCS) and the Voluntary Principles on Security and Human Rights (VPs), have emerged to promote corporate social responsibility (CSR). The most recent and authoritative global governance initiative that focuses on CSR and human rights is the United Nations Guiding Principles on Business and Human Rights (UNGPs), which rests on three principles: the state's duty to protect against human rights abuses by third parties, such as firms; corporations' responsibility to respect human rights; and greater access by victims to effective remedies (Ruggie 2011). These “new governance” standards are multistakeholder driven, and they embody a promise of more legitimate governance in their attempt to resolve some of the “wicked” problems that require collaborative efforts (Fransen 2012).

In the international relations (IR) scholarship, there has been a welcome attempt to understand norm dynamics and implementation of CSR norms in different countries (Aguilera and Jackson 2003; Dashwood 2012; Alorse et al. 2015; Grant et al. 2015; Compaoré 2018; Grant 2018; Andrews 2019a; 2019b; Alorse 2020; Andrews and Grant 2020). However, there is a paucity of research which explores the legitimacy-seeking dynamics of transnational firms via their sustainability and CSR practices (Palazzo and Scherer 2006; Beddewela and Fairbrass 2016). The above gap generates the key question that guides this chapter: To what extent do external and country-level institutional pressures as well as company-level legitimation dynamics drive the framing of corporate sustainability norms in the mineral sector of South Africa? This analysis is important because the extent to which firms differ in their organizational cultures and business ethics, and the extent to which they advance sustainability and CSR, matter for global governance discourses and policymaking. Thus, delineating the set of drivers that underpin both macro- and micro-level institutional analysis of organizational behaviour is a useful endeavour. Moreover, there is a growing recognition in the IR literature on private transnational actors as “global governors” (Avant et al. 2010; Büthe 2010; Enns et al. 2020). For example, Elbra (2017, 15) asserts that mining firms are “co-governors” of their sectors. In other words, mining firms interact with other key stakeholders,
such as government and civil society actors, to create or promote certain global governance norms. This evidence suggests that mining firms’ contributions to discourses of sustainable development and governance norms cannot be downplayed.

This chapter, drawing on primary data collected through interviews from March 2017 to June 2017 in South Africa, specifically examines the VPs and UNGPs as “new governance” norms. Our selection of the VPs was driven by the richness of data and the passage of time since the VPs was established. The point is that enough time has elapsed since the establishment of the VPs in 2000 to reasonably assess its influence. As an initiative that brings together extractive companies, governments, and NGOs, they were “designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights.”

Even though the VPs has been in existence since the early 2000s, the UNGPs is seen as the most authoritative global governance framework for business and human rights due to the unanimous approval by the UN Human Rights Council in 2011, and several endorsements from state and non-state actors (Ruggie 2014). Overall, both initiatives complement each other, and corporate actors have made several references to the key principles outlined in both frameworks.

In this chapter, we argue that although external pressures from transnational advocacy groups, for instance, are vital for how TMFs frame sustainability in the South African context, country-level institutional pressures and company-level legitimation dynamics tend to be the key drivers of how sustainability and “new governance” practices are framed by senior corporate actors. The chapter begins with a conceptual framing that examines institutional theory and notions of “new governance,” sustainability, and legitimacy. The crux of the paper follows in the subsequent section, where we examine the corporate framing of sustainability in South Africa’s mineral sector. Here, we draw insight from the institutional and legitimation dynamics of three large TMFs operating in the country. This section leads us to a critical reflection that shifts the radar from corporate framing to pose the question of “sustainability for whom,” considering that popular notions around sustainable development always have target audiences who should be factored in to better appreciate how legitimacy is sought, maintained, and even contested. The concluding section summarizes the chapter, with key insights drawn from the framing of corporate sustainability.

**Logics of Institutionalism, “New Governance,” Sustainability, and Legitimacy**

Our chapter draws insights from institutional theory, as it is particularly useful for understanding differences in corporate governance (Aguilera and Jackson 2003). For instance, Davis (2005) argues that the most relevant and promising
corporate governance research seeks to understand the institutional context in which it occurs. Similarly, Dashwood (2012, 7) has asserted that mining executives “viewed the experience of mining in the countries where they had operations to be the single most important influence on their CSR policies,” pointing to the importance of the country-level institutional context. Institutional perspectives also focus on the dynamics of stakeholder demands and legitimacy (Hooghiemestra 2000). Companies want to be seen as legitimate actors among various stakeholders as a result of both internal and external institutional pressures – from within the firm and advocacy groups or other external parties, respectively.

Considering the evidence that social expectations to behave in a responsible fashion are driven by global governance norms, such as the UNGPs and the VPs (Adeyeye 2011), institutional theory helps to highlight the conditions under which firms are able to frame their sustainability and CSR practices. Furthermore, institutional theory posits that social systems and actors seek legitimacy or reinvent legitimacy norms within the institutional environment (North 1990; Suchman 1995; see also Hilson, Chapter 4 in this volume). As such, it is important to study the forces within the institutional environment that guide or constrain legitimacy-seeking behaviour. These constraints and forces converge to create isomorphism, or similarity of structure, thought, and action, within institutional environments (DiMaggio and Powell 1991). We consider institutions to entail both formal and informal arrangements, such as norms, customs, practices, and decision-making processes (i.e., “dos” and “don’ts”) that generally govern behaviour and, over time, can become crystallized as codified instruments for organization. Like other scholars (Aguilera and Jackson 2003; Dashwood 2012; Alorse et al. 2015), we argue that institutional pressures (underpinned by norms, values, and decision-making procedures at both the country and firm levels) influence the framing of corporate sustainability practices, although we also believe they are not and should not be the only reason why corporations embrace sustainability.

Ruggie (2014, 8–9) asserts that new governance or polycentric governance rests on the premise that “the state by itself cannot do all the heavy lifting required to meet most pressing societal challenges” and that “it therefore needs to engage other actors to leverage its capacities.” He further highlights the shift from the old hierarchical governance model to new governance whereby multistakeholder processes, public–private partnerships, and informal cooperation are emphasized. In a similar vein, Abbott and Snidal (2009, 528) point out that “new governance implicitly draws on the deliberative tradition of democratic theory, which emphasizes participation … it sees decentralization and collaboration as empowering societal actors; promoting dialogue and deliberation; and fostering tolerance, interdependence, and mutual accountability.” Simons and Macklin (2014) also argue that a governance gap exists with respect to
the prevention of, and accountability for, direct or indirect corporate human rights abuses in host states with weak governance. This view is consistent with Ruggie's (2008) notion that the worst cases of human rights violations occur in countries with weak rule of law, low incomes, high corruption, etc. This is a key reason why the business and human rights (BHR) agenda has gained prominence in recent years, especially in the mineral sector. From Dashwood's (2012) standpoint, the mineral industry has made efforts to improve its reputation through “new governance” voluntary mechanisms, and this can be seen as a strategic response to external pressures and constraints. This also explains why “the norm of CSR [which is characteristic of the triple bottom line to which we have already alluded] has proliferated in a relatively short time and gained so much traction in scholarly and policy-oriented circles” (Alorse et al. 2015, 251).

Given the breadth of sustainable development, it is important to clarify that our focus is on corporate sustainability. Han Onn and Woodley (2014, 117) have grouped corporate level sustainability into three key categories after analysing several definitions of the concept: Tier 1, which is Perpetual Sustainability, “focuses on benefits to shareholders and the continuation of mining”; Tier 2, which is Transferable Sustainability, “extends benefits to the broader community and environment”; and Tier 3, which is Transitional Sustainability, “focuses on providing intergenerational benefits to the broader community and environment, including after the completion of mining.” Drawing on the concept of political ecology, Essah and Andrews (2016) have also explored sustainable mining practices and CSR in the context of Ghana. Utilizing what they consider to be a pyramid of sustainable mining practices, the authors argued that “integrating sustainability in mining continues to pose a big challenge,” thus reflecting an existing disconnect between corporate discourses on sustainability and community views on sustainable practices (Essah and Andrews 2016, 75; see also Andrews and Essah 2020). These contributions accentuate the need to further explore the corporate framing of sustainability, especially from a legitimacy standpoint.

Legitimacy, as defined by Suchman (1995, 574) is “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.” Similarly, Palazzo and Scherer (2006) view legitimacy as conformity with social norms, expectations, and values by transnational actors. The multiplicity of stakeholders in an issue area tends to help increase legitimacy, as different parties are seen to have a say in matters. For instance, in recent years, TMFs often work with representatives from civil society groups and/or trade unions, who sometimes become watchdogs and critics of business behaviour (Fransen 2012). The inclusion of these representatives and other diverse stakeholders in sustainability or CSR activities gives room to corporate actors to strategically frame issues along the lines of learning together with stakeholders and to
garner support (Börzel and Risse 2005; Fransen 2012). In light of companies’ efforts to gain social acceptance and support where they operate, it is important to clarify that “social licence to operate” (SLO) has become the buzzword for framing sustainable development (Owen and Kemp 2013). The Sustainable Business Council (n.d., 4) notes that SLO is: “a measure of confidence and trust society has in business to behave in a legitimate, transparent, accountable and socially acceptable way … it’s deemed to be the foundation for enhancing legitimacy and acquiring future operational certainty, realising opportunities and lowering risk for the business.” Pedro and colleagues (2017) also highlight that SLO is premised on engagement between mining companies, government actors, and civil society groups to ensure that mineral resources contribute to local and national development.

Corporate Framing of Sustainability in South Africa’s Mineral Sector

South Africa’s democratic transition over two decades ago has resulted in several institutional changes that have affected the development of the concept of sustainability and CSR at the domestic level. Over the years, we have witnessed an institutional commitment towards sustainability and CSR in South Africa. This can be seen through stringent voluntary and mandatory mechanisms in the mining sector, resulting in legitimacy-seeking behaviour of TMFs. This development is mainly related to South Africa’s historical context and the complicity of corporations in the apartheid regime (Nattress 2006). As a result of the mining sector’s involvement in human rights violations during the apartheid era, a deep sense of mistrust continues to exist among stakeholders, especially between state and business actors. From an institutional standpoint, this mistrust has clearly contributed to the stringent mechanisms that exist and the legitimacy-seeking behaviour of transnational mining firms through what Pedro and colleagues (2017) refer to as “sustainable development licence to operate (SDLO)” in the domestic context.

South Africa’s Institutional Context vis-à-vis “New Governance” Norms

A 2013 report titled The South African Mining Sector: An Industry at a Crossroads stated that “the mining sector has been and will remain the heart and nervous system of the South African economy” (Antin 2013, 15). This assertion has been highlighted in several academic and policy circles covering the South African mining industry. For instance, the Truth and Reconciliation Commission of South Africa Report (1998, 58) concluded that “business was central to the economy that sustained the South African state during the apartheid years. Certain businesses, especially the mining industry, were involved in helping
to design and implement apartheid policies.” Even though this conclusion was reached in the report, mining companies were never truly held responsible for complicity in human rights abuses. This has created an environment of mistrust among various stakeholders in the mining industry, resulting in several regulatory frameworks to hold companies accountable for their operations. This sense of mistrust has also contributed to why the state is hesitant to promote or adopt voluntary (soft law) mechanisms, such as the VPs, the UNGPs, and the Extractive Industries Transparency Initiative.

For instance, on several occasions, labour unrests in South Africa’s mining sector have resulted in violent reprisals from security forces. However, a recent report notes that “South Africa has been quiet on matters involving soft law, especially in the context of business and human rights…. While many States have openly expressed support for the UN Guiding Principles on Business and Human Rights (UNGP), the South African government is currently prioritizing the process around a treaty on business and human rights at the UN level” (Centre for Human Rights 2016, 2). The above context explains the existence of stringent (e.g., legally binding) regulatory frameworks and the lack of appetite from the South African government to embrace voluntary CSR initiatives focusing on security and human rights.

Despite the mining sector’s positive contributions to South Africa’s economic growth, it has also been heavily criticized for its connection to apartheid policies. Hönke and colleagues (2008, 10) assert that the current discourse on corporate responsibility and the interaction of various actors in the South African context is closely related to the role of business during the apartheid era: “Dominated by white Afrikaner business, the South African corporate sector during apartheid was based on an exploitative as well as highly segregate system of forced labour, which initially was supported by foreign investment and later subject to trade sanctions in the wake of South African isolationism.” Mining simply trumped surface land rights, giving mining companies tremendous legal power to acquire mineral rights over agricultural lands and environmentally sensitive communal and tribal areas. Natural resources were exploited without paying attention to social and environmental impacts or sustainable practices. The institutional landscape has now changed to address the historical legacy of apartheid through redistributive policies, such as Black Economic Empowerment (BEE). For instance, South African regulatory mechanisms now require corporations, including mining firms, to report on environmental and social issues to their shareholders, and the listing requirements in South Africa now include a socially responsible investment index (SRI) (Institute of Directors of Southern Africa 2009; Orr 2020).

Moreover, an updated Mining Charter has been instituted which is meant to serve as “a regulatory government instrument designed to effect mutually symbiotic sustainable growth and broad based and meaningful transformation
of the mining industry,” which will be read and interpreted in conjunction with the Mineral and Petroleum Resources Development Act (MPRDA 2002) (Department of Mineral Resources 2018, 13). Referred to as Mining Charter III, a key aspect of its regulatory significance is the change in Black ownership. For new mining rights to be issued, there would be a requirement for 30 per cent of the mining right to be held by Black shareholders within five years. This proposal was hotly contested by the industry, as the previous rate was 26 per cent. An interesting thing about Mining Charter III is the legal ambiguity that surrounds it – particularly in terms of its position as policy or law considering its role in highlighting aspects of (and working in tandem with) the MPRDA 2002 and not in entirety. A 2021 High Court case where the Minerals Council of South Africa was challenging the Minister of Mineral Resources and Energy attests to this dichotomy but, in the end, the ruling stipulated that Mining Charter III is a policy document and not law.5

Through the MPRDA 2002 Act, the state, as a regulator and custodian of natural resources, has the power to award mining rights to companies. This means that the state can influence corporate sustainability or CSR practices and/or compliance through the “use it or lose it” principle of the MPRDA 2002 Act (Cawood 2004, 55). The idea behind this principle is to encourage the exploitation of mineral resources for the benefit of all members of society, especially historically disadvantaged South Africans. Also, mining companies are now required to submit legally binding Social and Labour Plans (SLPs) as part of their application for mining rights. This is to ensure that mine workers and communities benefit from natural resources. Furthermore, the national Constitution of South Africa and voluntary rules known as the King Code make provisions for social investments and sustainability respectively. Additionally, Hamann (2004) has highlighted that the Mines Health and Safety Act of 1996 and the requirement after 1994 to prepare environmental impact assessments (EIAs) for the mines, complemented by the concerns of investors and stock exchanges, served as key institutional drivers in South Africa’s mineral sector.

Framing of Sustainability and Legitimacy via “New Governance” Logics

It is important to note that, despite the reluctance of the South African government to embrace voluntary global governance initiatives, Andrews and Alorse (2017) assert that there are positive signs from large extractive firms and civil society actors vis-à-vis the BHR agenda. In the subsequent paragraphs, we expand on this earlier work with empirical evidence by drawing attention to how large transnational mining firms have framed sustainability and CSR practices from a legitimacy standpoint. As indicated in Table 2.1 below, leading mining firms in South Africa have made commitments to “new governance” norms, such as the VPs and UNGPs. They have also produced sustainable
Table 2.1: Large Mining Firms’ Commitments to Human Rights, Sustainability, and Legitimation Dynamics – South Africa

<table>
<thead>
<tr>
<th>Mining Company</th>
<th>Public Human Rights Policy</th>
<th>UNGPs Support</th>
<th>VP Support</th>
<th>Sustainability/Sustainable development or CSR Report + Presence of Committee?</th>
<th>Legitimacy + Sustainability Framing via Reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rio Tinto</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, Sustainable Development Report + Sustainability Committee</td>
<td>Broad Stakeholder Approach + Social Licence to Operate (SLO)</td>
</tr>
<tr>
<td>AngloGold Ashanti</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, Sustainable Development Report + Social, Ethics and Sustainability Committee</td>
<td>Broad Stakeholder Approach + Social Licence to Operate (SLO)</td>
</tr>
<tr>
<td>Anglo American</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes, Sustainability Report + Sustainability Committee</td>
<td>Broad Stakeholder Approach + Social Licence to Operate (SLO)</td>
</tr>
</tbody>
</table>

Source: Authors’ Compilation from Business & Human Rights Resource Centre, the South African Chamber of Mines, companies’ websites, and field research insights.

Given that mining is a business with a long history of controversies, the operations of mining companies continue to be under intense scrutiny, especially large mining firms like Rio Tinto, AngloGold Ashanti, and Anglo American. The implication of this is that mining firms must gain legitimacy (i.e., widespread social acceptance) in the contexts within which they operate. Various scholars (Deegan et al. 2002; Lyons et al. 2016) note that the bigger an industry’s level of impact in a particular context and the more vulnerable it is to criticism, the more likely it will be to use sustainability or CSR as a means to demonstrate legitimacy. This assertion confirms the sustainable development–driven and stakeholder-oriented reports that merge concepts of SLO with the sustainability agenda – referred to as “sustainable development licence to operate” by Pedro and colleagues (2017). A key reason for this framing among large firms
is that they are highly visible and can be easily attacked by critics. As a result, these firms must signal legitimacy and sustainability or sustainable development practices in their operations, though these signals do not necessarily imply effective implementation on the ground.

For instance, when it comes to BHR issues, it is obvious that all the major mining firms listed in Table 2.1 have publicly endorsed the VPs and the UNGPs. In terms of timelines, Hamann and colleagues (2009) note that extractive firms only began providing systematic and explicit accounts of human rights policies and practices in their sustainability reports as late as 2006. Indeed, mining firms sensed the winds of change with respect to the BHR agenda, and they sense the responsibility to ensure that past mistakes or controversies do not get repeated. For example, a senior mining executive for AngloGold Ashanti stated that “the Marikana tragedy here [South Africa] is a constant reminder of how bad things can go. You know, a key driver of security management is the VPs…. We have a responsibility to respect human rights, so we take it seriously.”

As a participating member of the VPs since 2007, AngloGold Ashanti puts forward annual reports that cover a broad range of stakeholders and their commitments to human rights due diligence in their areas of operations. Similarly, Rio Tinto, a founding member of the VPs, has been actively promoting the BHR agenda through reports and engagements with diverse actors. For instance, in June 2015, the company published *The Way We Work*, focusing on themes such as respect, integrity, teamwork, and accountability. In 2013, Rio Tinto also published a report titled “Why Human Rights Matter: A Resource Guide for Integrating Human Rights into Communities and Social Performance work at Rio Tinto” (Rio Tinto 2013). Central to this document is a focus on case studies demonstrating the importance of human rights diligence.

When it comes to corporate sustainability, there is a clear indication that companies strive to align their values with global frameworks, especially BHR norms such as the VPs and the UNGPs. However, social acceptance based on institutional pressures tend to drive their framing of sustainability in public reports. We posit that mining executives in South Africa are acutely aware of institutional pressures and the need to frame their practices to meet context-specific needs. For instance, a senior corporate official with several years of experience stated that:

People talk about sustainability loosely and what it means. Then a lot of people say it’s not sustainability. Others say it is sustainable development. We used to say sustainability, but we now call it sustainable development. The rationale for this is that we are faced with so many challenges that affect people and [the] environment, and so the word ‘development’ comes into the picture. Everyone is saying it’s sustainable development because we work in a political environment and these goals [Sustainable Development Goals (SDGs)] are not going to be achieved very easily
because they are long-term goals… In South Africa, we must understand that the poverty gap between the rich and poor is huge, and history is still present. Can we find a middle ground? Unfortunately, as long as there is poverty and inequality, a lot of that will keep driving sustainability.7

The above observation demonstrates that, even though global pressures and initiatives (e.g., SDGs) influence how companies approach sustainability in South Africa, domestic institutional realities and pressures tend to be the main drivers of how sustainability is framed. In examining the sustainable development reports of the three companies listed in Table 2.1, it became clear that the main vehicle for framing legitimacy and sustainability is via the notion of SLO. An interview with a high-ranking sustainability official with AngloGold Ashanti pointed out that “in South Africa, people are asking: if resources belong to us [based on the MPRDA 2002 Act], why then are we poor? The debate is simply about wealth sharing and we understand that we always need buy-in. In short, social licence to operate is critical for us.”9 Moreover, AngloGold Ashanti’s 2016 sustainable development report notes that the company’s focus is “to ensure sustainable development principles become deeply embedded in the business value chain…. As we elevate our capability to address the challenges we face, we enhance our social licence to operate and increase our ability to compete successfully in all aspects of our business” (AngloGold Ashanti, 2016, 14). The report also makes references to actions and strategies required to secure an SLO. Like AngloGold Ashanti, Rio Tinto and Anglo American undertake the framing of sustainability by focusing on a broad range of stakeholders to gain legitimacy. They also make references to SLO or emphasize the importance of domestic partnerships and gaining trust. For example, Rio Tinto highlighted in its 2016 sustainable development report that “the company’s experience has positioned it well in a world where the concept of building and maintaining social licence to operate is the norm” (Rio Tinto 2016, 37).

Anglo American’s chairman has also stated that “pressure on the extractives industry continues to mount in the wake of high-profile environmental incidents … the industry is also committing more resources to the sustainability agenda in order to forge greater trust within the host communities where it has operations and retain its social licence to operate” (Anglo American 2016, 6). Overall, what is clearly observable in terms of commitments to “new governance” (i.e., BHR) norms in this case and the framing corporate sustainability via legitimization dynamics in the context of South Africa is the similarity in actions. This aligns with institutional theory’s argument, which notes that constraints, pressures, and diverse forces do converge to create isomorphism – which entails similarity in organizational or responsible management practices as firms strive to conform to rules and norms and, by so doing, become more like (or better than) their competitors. Yet, it remains unclear what these
pressures and the subsequent uptake of the sustainability discourse mean for proactive and demonstrable initiatives that advance sustainable development.

**Beyond the Corporate Framing: Sustainability for Whom?**

From the discussion so far, it is easy to assume that corporate actors are greatly moved by institutional persuasions to embrace “new governance” narratives which help them associate their activities with notions of sustainability. We have seen that although external pressures are somewhat vital for how TMFs frame sustainability in the South African context, the values that function at the firm level tend to drive the framing of sustainability and “new governance” practices by senior corporate governance actors. For instance, a senior corporate official from AngloGold Ashanti noted that “a lot of issues of sustainability go back to the value system … if you’ve got values in your company and everyone believes and lives those values, then it shouldn’t really matter whether you are a large or small company. You can do it at a minimum cost.”10 In fact, corporate leaders have noted that a company’s value systems (which are informed by the firm’s enactment of itself in society vis-à-vis expectations around responsibility and accountability) are crucial for driving the sustainable development agenda – a finding that is consistent with a recent survey released in December 2017 by the global consulting firm McKinsey (McKinsey and Company 2017). This is an interesting finding, given that the notion of SLO is not something a corporation can maintain if it focuses on its own set of values instead of those that are of interest to society at large (Owen and Kemp 2013). The implication here is that TMFs present to us a discourse of social licence that suggests that local communities are indispensable to the success of their profit-seeking activities, whereas in practice they are often guided by their own interpretations of the present and future goods that society needs.

Also, though sustainability is multifaceted, there is a common understating that value systems are crucial for driving the corporate sustainability agenda, which has financial returns. It is also important to note that when it comes to framing, different stakeholders, including policymakers, civil society groups, and corporate actors, will have different perspectives on how the sustainability agenda or any other issue area should be framed. This is exactly why we simply cannot focus on corporate framings in our attempt to gain a meaningful appreciation of the ongoing discourse of sustainable development. In fact, given the exploitative and inherently unsustainable nature of the resource extraction process, it is quite oxymoronic to imagine that senior corporate executives have embraced logics of sustainability or sustainable development by endorsing a number of “new governance” norms. Research has shown that by portraying themselves as sustainable organizations, corporations have given themselves the right to speak about sustainability and to frame and align their actions
with the sustainable development discourses – even when such actions are not informed by long-term societal goals (Tregidga et al. 2014). For example, a mining executive stated that “everything we are doing now is from a sustainable development perspective. We go back and forth, and we are referencing frameworks [global norms] to get alignment.”

Another executive mentioned that “It is in the nature of a capitalist economy to extract as much as possible, so it is incumbent upon the community, society and the state to ensure that they get a fair share and I think it is also incumbent upon leaders in the mining industry to begin to realize that it can’t continue along this way into the future … every party must come to the table and the social licence to operate conversation is important.”

However, a mining geologist with several years of experience in the South African mineral industry highlighted that a lot of the approaches regarding alignment with the sustainability agenda and CSR are top-down approaches that are driven by profit maximization objectives: “the mine is there to make money and you are there to do your job. They have separated corporate from us so that we can focus on our job.” This employee argued that in order to make societal impacts through norms, it is also important to consider bottom-up approaches and company-wide insights. To properly underscore how some institutional perspectives tend to focus on the dynamics of stakeholder demands and legitimacy (Hooghiemstra 2000), it is useful to ensure that corporate framing is juxtaposed to stakeholder claims and notions around the legitimacy of these corporations.

One of the key limitations of the institutional theory we have drawn upon in this chapter is its inability to properly account for agency – in this case, the end-users of sustainability framings via “new governance” narratives. The institutional logic of isomorphism (DiMaggio and Powell 1991), which entails inter- and intraorganizational learning or copying, tends to be limited to what occurs inside the corporate machinery or at meetings attended by senior management and board members in a manner that takes for granted how a popular discourse, such as sustainability, needs to have clear and potentially positive ramifications for communities in the neighbourhood of extractive activities. The fact is that, despite corporate executives’ association with discourses of sustainability, one may even argue that the “new governance” narratives we have examined (i.e., VPs and UNGPs) do not have explicit linkages with sustainable development – which we have defined as development that is cognizant of the needs of both present and future generations. The point we are making here is that, although human rights and human security are key aspects of sustainable development, these two BHR norms do not make the link overt, especially considering how they have framed the spheres of responsibility for corporations, states, and other actors. This is besides the non-binding nature of these norms. For example, a prominent academic, lawyer, and activist in South Africa stated that “If you see the UNGPs as the sole guiding principle
[for] business and human rights issues, it cannot work. What do you do when companies don’t recognize the responsibility to respect? If you are going into communities and you are looking for remedies for victims, and ensuring that companies are responsible, then you need something harder…. In our African context, we need to ensure that businesses contribute to community development and it’s not enough to do no harm.”14 Similarly, another community activist stated that “When it comes to grievance mechanisms, the company has total control … we are arguing for independent remedial processes to be set up so that communities can launch grievances. Don’t get me wrong. The principles are good in general but are open to abuse by those who have power, especially the big companies. Of course, anyone can say I respect or adhere to X and Y norm, but we know in practice a whole lot of things that are deviating from such sentimental principles.”15

These two observations reveal how the popular endorsement or uptake of sustainability discourses as part of TMF’s value systems functions at the level of principle or rhetoric without much to show for it when one examines corporate practices. The three-tier framing of corporate-level sustainability put forward by Han Onn and Woodley (2014) is worth briefly reflecting on here. In this typology, the first key category (i.e., perpetual sustainability) is limited to the continuation of mining and benefits that accrue to shareholders, although one may expect an understanding of “perpetual” to be more than merely profit orientation if notions of “triple bottom line” are to be taken seriously. It does, in fact, point to how the business case is strictly attached to corporate framing of social issues to the detriment of the long-term outcomes that solutions to these issues are expected to reveal. Evidence provided by Essah and Andrews (2016) in what they characterize as a pyramid of sustainable mining in Ghana also highlights how “sustainability as long-term community development” is often not what mining corporations mean when they speak of sustainable mining practices. Although the fieldwork that informs this chapter did not particularly engage with how local communities frame or perceive corporate efforts towards sustainability, the evidence provided by Essah and Andrews (2016) and others (Banerjee 2003; Gray 2010; see also Chapters 4, 11, and 13 in this volume) underscore the question of sustainability for whom. This question pushes our thinking beyond the powerful institutional logics and narratives that underlie how corporate executives frame certain types of issues to examine whether these discourses mean anything for end-users or beneficiaries. An NGO representative interviewed in South Africa had this to say about the contestations of corporate discourses: “In our context [South Africa], there are imbalances even though we have corporate governance mechanisms or codes … corporate social investments are not just building classrooms or building hospitals. Sustainability goes beyond those small PR things. It has to take into account the entire socio-economic backgrounds of the people and not just designing maps
somewhere and bringing them into the communities. If you [mining company] want to make long-lasting changes, you must remember that communities are not bystanders. They don’t want to sit and watch the game. They want to play the game, so involve them.”

Another civil society representative, commenting on trust issues and community-company dynamics, stated that:

“The social, environmental and economic impacts of mining are huge. In a community where there is a high level of illiteracy, people are not well-educated and not exposed to social media, it can be very difficult for them to see the big picture. However, they can tell you about the change they are seeing, and they are able to see that they are in some way violated. If you blame the mining industry, they [companies] ask for proof…. In some instances, the companies make big promises to mining communities, but these promises are not fulfilled. Considering that most of these communities have inherited the tradition of oral history, they tend to trust companies to commit to their words. However, the mining companies take advantage of this oral history knowledge and break their community development promises. They [companies] then ask the community: Can you really show us where we wrote it [or promised]?”

The insights from these contestations reflect how corporate framings of sustainability do not reside in a vacuum, as they are often necessitated by acts to maintain control and legitimacy over the social order (Andrews 2019b). The contestations also highlight how corporate framing of sustainability or sustainable development tend to be underpinned by an economic (instead of ecological) rationality (Banerjee 2003). From the narratives of corporate sustainability in the mineral sector of South Africa (Table 2.1 above and subsequent discussion), it becomes obvious that a common thread binding the framing of sustainability and legitimacy is the notion of earning, securing, or maintaining SLO through trustworthy partnerships. However, it is important to highlight that even though SLO has become a policy tool for framing sustainability and legitimacy, mining executives do not hesitate to point out the complexities and difficulties of mining. For instance, in a presentation at the Junior Indaba conference in June 2017, one of the senior corporate officials argued that “Mining is a business. It’s not charity and it’s not a get-rich-scheme. It’s business and it’s hard work. Keep in mind that when the banks give you money, they want everything you have: cats, dogs, house, etc.” The corporate official argued that this is one of the realities of mining that is often overlooked, leading to high expectations from community members. This evidence illuminates the fact that paying too much attention to corporate accounts of sustainability indeed obscures a holistic understanding of sustainable development, as defined by the Brundtland Commission report three decades ago. In essence, the characterization of mining as “not charity,” “real,” purely “business,” and “hard work” in the above
observation firmly contradicts the enactment of the corporation as an entity that is genuinely capable of embracing a bigger vision that encompasses the long-term well-being of the society within which it works and thrives. This is an important emphasis that underscores grassroots contestation of the corporate framing of sustainability as not being particularly beneficial to anyone except the corporation itself.

Concluding Insights

In this chapter, we have examined the framing of corporate sustainability in the mineral sector of South Africa through the “new governance” lens. Specifically, we have argued that although external pressures by transnational advocacy groups are vital for how TMFs frame sustainability in the South African context, country-level institutional pressures and company-level legitimation dynamics tend to be the key drivers of how sustainability and “new governance” practices are framed by senior corporate governance actors. The chapter relied on the VPs and UNGPs as “new governance” norms on BHR to underscore how they are multistakeholder-driven and do embody a promise of more legitimate governance. Nonetheless, we have shown that even though these norms are underpinned by legitimacy claims, particularly the notion of SLO, an important question of sustainability for whom is often left unanswered. Yet, answering this question ensures that corporate framings of sustainability, and particularly mining companies’ uptake of sustainable development, is not taken for granted but rather carefully attuned to broader long-term societal goals – if at all possible.

While mining companies and senior managers push the business case for sustainability (i.e., implications for profit maximization for shareholders), they also tend to raise the need to reduce or mitigate negative social and environmental impacts of mining. However, in an institutional context like South Africa, where political pressure and expectations for natural resource exploitation are very high, “mining easily becomes a political football,” as one interviewee noted. This reality poses a huge challenge for different stakeholders, including community actors who may not know where to turn in response to unfulfilled promises regarding sustainable development. On the one hand, the government strives to attract investment, promote economic developments, and reap the benefits of mining. On the other hand, government policies must account for liabilities and/or negative impacts of mining on local communities, the environment, and people’s general socio-economic livelihoods. In this context, the mining industry easily becomes a target for elected officials as they strive to balance these objectives. It also creates an institutional vacuum that allows corporations to frame certain discourses in a manner that suits their respective interests.
As this chapter goes to press, the spectre of yet another wave of the COVID-19 pandemic – a health crisis that has already had devastating impacts across the globe – is raising alarms. With regard to the global mining industry and sustainable development, early studies have shown the impact of COVID-19 has intensified conflicts in countries such as Canada and regions such as Latin America (see Bernauer and Slowey 2020; Benites and Bebbington 2020) as well as exposed the general laxity of environmental regulation that would safeguard host communities during and after the pandemic (see López-Feldman et al. 2020; Severo et al. 2021). Other studies have also predicted the inability of the mining industry to effectively contribute to sustainable development now and in the post-pandemic years (Laing 2020). These pieces of evidence suggest that although proponents of the above-mentioned “new governance” norms are currently encouraging corporations to implement sustainability initiatives that would have a lasting impact on society, it remains to be seen whether these recommendations would mean anything for TMFs who are themselves experiencing financial ramifications from the pandemic.

NOTES

1 John Elkington articulated the phrase more fully and popularized it. It is also widely known as the 3Ps (profit, people, and planet). Elkington’s work was a call to action for corporate leaders to consider the social dimension of sustainable development.

2 The Berlin Guidelines II focus on sustainable management in the mining industry. The guidelines cover all stages of the mining operation: mining and sustainable development, regulation, environmental management, voluntary undertakings, community development, and artisanal mining. For more details, see http://commdev.org/userfiles/files/903_file_Berlin_IL_Guidelines.pdf.

3 Voluntary Principles on Security and Human Rights (n.d.).


5 For instance, Compaoré (2013) asserts that, although the extractive sector is susceptible to corruption, government officials in South Africa do not consider the EITI a policy priority. In short, the South African government has been reluctant to join the EITI, which is a voluntary multistakeholder initiative focusing on transparency issues in the extractive sector.


7 In-person interview with senior corporate official, Johannesburg, South Africa, 27 March 2017.
8 Note that all three companies titled their reports as “sustainable development” reports. This seems to be a common trend, and one can anticipate that this would be the trajectory for at least the next decade. Moreover, mining companies now have Sustainability Committees in place to address and/or frame sustainable development issues.

9 In-person interview with senior corporate official, AngloGold Ashanti, Johannesburg, South Africa, 11 April 2017.


11 In-person interview with senior corporate official, Johannesburg, South Africa, 29 March 2017.

12 In-person interview with senior corporate official, Johannesburg, South Africa, 13 April 2017.

13 In-person interview with an experienced mining geologist, Johannesburg, South Africa, 16 April 2017.

14 In-person interview with prominent academic, lawyer, and activist, Johannesburg, South Africa, 11 May 2017.

15 In-person interview with a community activist, Johannesburg, South Africa, 19 May 2017.

16 In-person interview with an activist and employee of Bench Marks Foundation, Johannesburg, South Africa, 5 May 2017. Note that Bench Marks Foundation is a non-profit, faith-based organization that focuses on monitoring corporate social responsibility (CSR) in the mineral sector.

17 In-person interview with a civil society representative, Johannesburg, South Africa, 9 May 2017.

18 Presentation made by an executive chairman of a mining company, Junior Indaba Conference, Johannesburg, South Africa, 7 June 2017.

19 In-person interview with a sustainability and social innovation consultant. Johannesburg, South Africa, 30 May 2017. Also note that interview insights from executives and sustainability experts demonstrate that the institutional context (e.g., the contentious Mining Charter, stringent regulatory frameworks and enormous political pressure for mining companies to meet the demands of government officials) pose many sustainability challenges for companies operating in South Africa.

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