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Introduction

AUTHOR(S)

Ciaran O’Faircheallaigh

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Aizlewood’s Mill, Nursery Street, Sheffield S3 8GG, UK
Tel: +44 (0)114 282 3475 Fax: +44 (0)114 282 3476
info@greenleaf-publishing.com <http://www.greenleaf-publishing.com>



Introduction

Ciaran O'Faircheallaigh

Department of Politics and Public Policy, Griffith University, Australia

Indigenous peoples have historically gained little from large-scale resource development on their traditional lands and have suffered from its negative impacts on their cultures, economies and societies. During recent decades indigenous groups and their allies have fought hard to change this situation: in some cases by opposing development entirely; in many others by seeking a fundamental change in the distribution of benefits and costs from resource exploitation. In doing so they have utilised a range of approaches, including: efforts to win greater recognition of indigenous rights in international forums; pressure for passage of national and state or provincial legislation recognising indigenous land rights and protecting indigenous culture; litigation in national and international courts; and direct political action aimed at governments and developers, often in alliance with non-governmental organisations (NGOs).

At the same time, and partly in response to these initiatives, many of the corporations that undertake large-scale resource exploitation have sought to address concerns regarding the impact of their activities on indigenous peoples by adopting what are generally referred to as 'corporate social responsibility' (CSR) policies. This book focuses on such corporate initiatives. It does not treat them in isolation, recognising that their adoption and impact are contextual and are related both to the wider social and political framework in which they occur and to the activities and initiatives of indigenous peoples. It does not treat them uncritically, recognising that they may in some cases consist of little more than exercises in public relations. However, neither does it approach them cynically, recognising the possibility that, even if CSR policies and activities reflect hard-headed business decisions, and indeed perhaps *particularly* if they do so, they can generate significant benefits for indigenous peoples if appropriate accountability mechanisms are in place.

In undertaking an in-depth analysis of CSR and indigenous peoples in the extractive industries, the book seeks to answer the following questions. What is the nature and extent of CSR initiatives in the extractive industries and how should they be understood? What motivates companies to pursue CSR policies and activities? How do specific polit-

ical, social and legal contexts shape corporate behaviour? What is the relationship between indigenous political action and CSR? How and to what extent can corporations be held accountable for their policies and actions? Can CSR help bring about a fundamental change in the distribution of benefits and costs from large-scale resource exploitation and, if so, under what conditions can this occur?

The next section provides a context for the individual contributions by analysing the concept of CSR and briefly outlining the circumstances that have led to the widespread adoption of CSR initiatives by the world's major resource development companies. The focus of each chapter is then briefly outlined.

Corporate social responsibility

Three broad approaches are evident in writing on CSR (for a detailed discussion see Carroll 1999; O'Faircheallaigh 2007). The first sees it simply as a public relations exercise designed by companies to persuade governments and citizens that they are not only interested in maximising profits, but also have the public interest at heart. In this view CSR represents a cynical exercise designed to protect companies from public pressure to behave in a publicly spirited manner, and will involve them spending as little as possible and focusing what they do spend on publicity material such as glossy 'sustainability reports' and on highly visible and tangible projects such as construction of buildings or support for the arts or for sports (see for instance Ballard 2001).

A second approach sees CSR as a holistic and long-term view of what is required to allow a company to survive and continue to generate wealth into the future. CSR is thus not simply a public relations exercise, but will require a company to pay careful attention to societal values and to forgo profits in the short term in order to protect its 'social licence to operate'. However, it does so as part of a rational calculation of self-interest, as an integral part of a strategic approach to maximising profits over the longer term (see, for example, Cragg and Greenbaum 2002).

Others emphasise that CSR must involve activities that would not be dictated by a purely selfish calculation of corporate interests. In other words CSR refers to a duty or obligation on corporations to create benefits for society in ways that *go beyond* what they cannot avoid doing because of legal obligations, or what they would do in any case purely on the basis of economic self-interest. Carroll (1999), for example, states that society expects business to use economic resources efficiently and operate profitably and to obey all applicable laws, but also to behave ethically, which may require going well beyond what is demanded by the law, and to make voluntary donations to socially worthy causes (philanthropy), reducing corporate profits (Carroll 1999: 10-11). There are two major grounds on which business may be expected to behave in ways that do not simply reflect economic self-interest. The first involves the argument that corporations receive substantial benefits from society. For example, they have important legal privileges that are not enjoyed by individual citizens, including limited liability, and they benefit from public expenditures in areas such as education, infrastructure and scientific research. In return for these benefits, it is argued, they owe society a debt, which they should help to fulfil by taking societal interests into account in corporate decision-

making (Donaldson and Preston 1995). The second involves the claim that corporations are not separate from the societies in which they operate, that they are run by human beings who are just as capable of making decisions on moral and ethical grounds as other individuals, and that ethics and social values as well as economic self-interest should therefore play a key role in corporate decision-making (Crawley and Sinclair 2003).

The argument that corporations owe a duty to society to behave in socially responsible ways raises the issue of whether such behaviour should be *required* of companies and enforced by public regulation or by other mechanisms that compel compliance, or whether relevant standards of corporate behaviour should be established only through voluntary mechanisms such as adherence to industry codes of conduct. For some, fundamental changes can be achieved only if companies internalise values that result in socially responsible behaviour, and such an outcome cannot be achieved through attempts by regulators or other actors external to corporations to impose standards. For others there is little prospect that CSR can result in fundamental change unless effective mechanisms exist to hold companies accountable for their behaviour, and voluntary mechanisms are incapable of providing this accountability (Coumans 2002).

Critics of CSR argue that, if it requires anything other than a focus on maximising profits, it involves real risks not just for corporations and shareholders but also for society. Milton Friedman, for example, identifies two such risks. The first is that productivity will decline as firms fail to focus on efficiency. The second involves a threat to the economic freedom of shareholders, as company managers and directors apply profits to their preferred social purposes rather than distributing them to shareholders and allowing the latter to decide how they should be applied (Friedman 1990).

Other critics of CSR focus not on the risks for corporations, but for society. They argue that large corporations already wield enormous economic power, and that as CSR practices become more widespread companies will start to accumulate social power as they use their wealth to intervene in social, political and cultural affairs. From this perspective it is preferable for governments, which unlike corporations can be held accountable by the electorate, to take responsibility for promoting the good of society (Cannon 1992: 47-48).

Whatever arguments can be made regarding CSR at a level of principle, a quick check of the websites of most major companies operating in the extractive industries will quickly reveal the widespread acceptance of CSR and the scale of activities and expenditures companies undertake to demonstrate their support for CSR principles. Multiple factors explain this phenomenon. Populations both in the home countries of corporations and in other countries in which they operate are better educated and better informed than in the past, in part because of the global reach of television and the internet. Global communication networks also assist in organising consumer boycotts across multiple markets, as happened with Shell after it was accused of causing widespread pollution in Nigeria and colluding with the Nigerian government to suppress popular protests against its operations (Mirvis 2000).

Corporations also face greater scrutiny and resistance at the local level from communities affected by their actions. Alliances between NGOs, which increasingly operate globally, and local groups mean that the latter also have a capacity to press their case internationally. During recent years people in countries as diverse as Papua New Guinea, Nigeria, Peru and Canada have taken direct action to delay the projects or disrupt the operations of companies they believed were failing to protect the environment, foster

economic and social development or involve local communities in decision-making. It is important to note that in many cases local action is not based on accusations of illegality. Compliance with the law offers no guarantee whatsoever that a project will be allowed to proceed or operate smoothly. Local opposition can lead to major delays in developing industrial projects, to their temporary closure or to their abandonment, and the costs for companies and investors can be enormous (Gao *et al.* 2002). Conversely, the support of local communities can help facilitate early project completion and reliable operations, generating substantial economic benefits for the companies involved.

Another important development relates to the growing capacity of individuals or groups who have been adversely affected by a company's operations or products to take legal action against the company in its home country. Historically, such legal action tended to be restricted to the country in which the relevant events or activities occurred, and a company's liability was limited to the assets it held in that country. In recent years important legal precedents have been established that allow a parent company (and its assets) to be pursued in the courts of its home country. So, for instance, during the 1990s Papua New Guinea villagers affected by pollution of the Ok Tedi and Fly rivers, caused by BHP's Ok Tedi mine, took action in Australian courts to seek compensation. BHP sought a ruling in the Federal Court that Australian courts did not have jurisdiction but, having lost that action, reached a settlement with the villagers that included cash payments in the tens of millions of dollars, dredging of the Ok Tedi River and future containment of tailings. As the risks of being sued increase and now involve multiple legal systems, many companies feel it is better to use CSR policies to try to avoid problems that cause legal suits in the first place

The increasingly global nature of funding for major industrial projects represents another important factor in the trend towards CSR. Even the largest companies rarely fund major investments from their own resources. Funding typically comes from international banking consortia and international financial institutions (IFIs) such as the International Finance Corporation, the private investment arm of the World Bank. Particularly for projects in developing countries, banks and IFIs require political risk insurance for their investments, provided for example by the World Bank's Multilateral Investment Guarantee Agency or national organisations such as the US Overseas Private Investment Corporation (OPIC). International financiers and investment insurance agencies are increasingly reluctant to fund projects unless the companies developing them address environmental and social issues in the countries in which they operate (see for instance OPIC 2006). Here also, companies need to go beyond complying with local laws. If those laws fail to protect the environment or meet the aspirations and concerns of local communities, and projects are delayed or their operations disrupted, it is no comfort to banks or insurers that project operators complied with the law.

Focus of the chapters

The book begins with two chapters that consider aspects of the wider political and social context within which CSR policies are developed and resource development occurs. Trebeck focuses on the issue of whether corporations can be scrutinised and made respon-

sive to those whose lives they affect ('civil regulation'), so contributing to the advancement of democracy in political systems where the responsiveness of state agencies is often imperfect. She uses empirical evidence from relationships between mining companies and indigenous Australians to assess the capacity of civil regulation to promote democratisation. Haley and Magdanz focus on another key contextual variable by examining the social ties that characterise indigenous societies affected by resource development. Drawing on the experience of Inupiat and Yupiit people living in areas of Alaska affected by oil development, they develop a theoretical framework and research agenda for understanding types of social ties, changes in social ties and implications of changes in social ties in relation to resource development.

As mentioned earlier, CSR initiatives affecting indigenous peoples cannot be analysed or understood in isolation, and in Chapter 3 Coumans examines a key aspect of the wider political context by examining relationships between indigenous peoples and rights-based non-indigenous NGOs. She illustrates the various means by which indigenous groups and NGOs seek to advance rights-based positions. She examines the interaction between these initiatives and the efforts of mining companies and their associations and home governments, and of international financial institutions, to determine standards for CSR, in ways that frequently seek to limit indigenous rights. The theme of indigenous-NGO alliances and their interactions with corporations is taken up later, in Chapter 10, by Cerretti, McAteer and Ali, who focus on what they term 'shareholder transnational advocacy networks' in the context of the foreign-dominated oil industry in Ecuador. These networks link indigenous communities in Ecuador, who have few avenues to influence corporate practice from the local level, with domestic and international NGOs. The NGOs in turn provide connections to corporate shareholder groups, including socially responsible investing firms, in attempts to influence the policies of corporate head offices in the USA and so, via a 'boomerang effect', company behaviour on the ground in Ecuador.

In 'settler' societies such as Australia and Canada it is now commonplace for CSR commitments to be enshrined in legally binding agreements between companies and indigenous landowners, a practice also increasingly common in some developing countries. O'Faircheallaigh argues in Chapter 4 that, while such agreements have important advantages, especially in establishing standards for company performance and corporate accountability, they can also bring about significant changes to the structural position of indigenous groups within wider political, legal and administrative frameworks. He explores the potential impact of agreements on indigenous peoples' relationships with the state, with NGOs and other political actors, and with the media, and on their existing rights under regulatory and legislative regimes. As Howitt and Lawrence note in Chapter 5, interpersonal as well as structural aspects of indigenous-company relations require attention, given that interaction on the ground is often dominated by personal relations between individual company employees and indigenous people they deal with on a day-to-day basis. Drawing on examples from mining and forestry in Australia and Scandinavia, they explore the tension between the potential benefits of, and the essential fragility of, such interpersonal relations.

Indigenous communities and peoples are not homogeneous in their experience of corporate policies and activities, a point highlighted by Gibson and Kemp in their discussion of corporate engagement with indigenous women in Chapter 6. They show that indigenous women have largely been excluded from negotiations about benefits from

mineral development while disproportionately feeling the adverse impacts of mining. Literature about corporate responses to concerns articulated by indigenous women is virtually non-existent, and they argue that a remedy for this situation requires further empirical research informed by a number of theoretical lenses. Angelbeck's study of commercial forestry in British Columbia in Chapter 7 illustrates that the corporate sector is not monolithic, with most large forestry companies, unlike their counterparts in the mining industry, failing to adopt any significant CSR initiatives. This has left indigenous groups with no choice but to focus on litigation and direct action aimed at both companies and government, in attempts to protect their cultural heritage and forests in which to maintain contemporary cultural practices. Angelbeck notes the potential of CSR to deliver more positive outcomes for all involved.

In Chapter 8 Barker examines one arena for CSR activities, indigenous employment in mining, in the specific context of Australia. She focuses on an issue that has received little attention to date: the impact of employment on individual indigenous people and on their communities. She raises issues regarding the nature of employment effects, examines relevant evidence from a number of mines in north Australia, and indicates the sorts of research approaches that are required to enhance our understanding of various interlinking aspects of indigenous employment. Filer, Burton and Banks focus on the very different context of Melanesia. In Chapter 9 they examine the apparent paradox that a region that has experienced some of the most environmentally damaging mining projects of the modern era, including Bougainville, Ok Tedi and Freeport, is also regarded as containing, especially in Papua New Guinea, some of the world's most inventive and successful indigenous resistance to corporate domination.

In Chapter 11 Anguelovski examines 'dialogue tables' established at two mines in Peru as part of corporate responses to indigenous opposition to mining, which resulted from its damaging impact on indigenous territories and indigenous health. Using an environmental justice framework, she assesses the extent to which company practices matched corporate rhetoric and illustrates the critical role played by government policy and legislation in framing company responses to indigenous demands. In Chapter 12 Crate and Yakovleva examine another and quite different context for CSR: the recently privatised diamond-mining industry in Russia. They highlight the limited nature of corporate responses in a context where mining has, historically, caused widespread and serious environmental damage and where public officials are often reluctant to support indigenous efforts to achieve remediation and improve future environmental management. They consider the human rights and environmental justice implications of diamond mining in the Vilyuy regions, draw parallels with other indigenous contexts, and explore possible ways of better protecting indigenous lands and livelihoods.

The chapters show clearly the great diversity that characterises initiatives and policies represented as 'corporate social responsibility', the highly contingent and contextual nature of corporate responses to indigenous demands, and the complex and evolving nature of indigenous–corporate relations. They also reveal much about the conditions under which CSR can contribute to a redistribution of benefits and costs from large-scale resource development, a theme we return to in the Conclusion.

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