


## Bonnie Campbell<sup>1</sup>

<sup>1</sup> Faculté de Science Politique et de Droit,  
Université du Québec à Montréal,  
Montreal, Quebec, Canada  
([campbell.bonnie@uqam.ca](mailto:campbell.bonnie@uqam.ca))

 ORCID ID:  
[orcid.org/0000-0001-9000-5515](https://orcid.org/0000-0001-9000-5515)

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# Corporate influence and the global pandemic – reflections from the mining sector

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## Abstract

Power asymmetries offer a lens for understanding the reshaping of corporate strategies in the mining sector during the pandemic. Using a heterodox international political economy perspective, the first section of the article argues that regulatory frameworks are both the expression of structural power relations and a key instrument contributing to their reproduction. The second illustrates this by focusing on companies' attempts to renegotiate fiscal concessions and keep mines open during the pandemic. The third examines how corporate actors have become directly involved in the delivery of health services and longer-term implications of such involvement. The conclusion identifies further research areas.

**Keywords:** corporate influence, health, mining, pandemic, power.

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## Introduction

**P**ower asymmetries in the international sphere can offer explanations about why the spotlight falls on certain diseases and not on others, as well as the role of transnational companies in global epidemics. They are also an interesting point of entry for understanding how, in the context of the current pandemic, corporate actors in the mining sector are reshaping their strategies and practices. These strategies include transnational companies' relationships with governments, for example, renegotiating operating agreements or seeking “essential service” status to prevent an interruption in production. They also include relations with communities as, for example, companies seek to enhance the social acceptability of their activities by contributing directly to the delivery of health services during the pandemic.

This article emphasises the specific contexts that explain evolving relations of influence and power and how these have progressed recently. The issues raised reveal the shortcomings created by the absence of regulatory frameworks for mining that would otherwise permit more global and coordinated responses to the pandemic. They also reveal the shortcomings of not having more adequate public health services in place, with the result that companies have at times assumed responsibility for service provision that would normally fall to the public sector. Certain mining companies have implemented extensive health programmes, raising issues concerning sustainability after mine closure and the equitability of service distribution among different segments of the population throughout the country. In the absence of more concerted responses, and in the context of regulatory failures, the pandemic has created the occasion for mining companies to put new strategies forward in their quest to advance their corporate agendas, including achieving greater legitimacy.

The broad category of “mining” includes a great variety of activities, among them artisanal, small scale, and industrial mining, which occur in very different settings around the world. “Mining” also includes the exploration, production, and transformation of hundreds of different minerals and dozens of metals. The International Council on Mining and Metals defines minerals as “solid, naturally occurring inorganic substances found in the Earth’s crust” and metals as “elementary substances such as gold, silver, and copper [that] are crystalline when solid and naturally occur in minerals.” (International Council on Mining and Metals nd.). It is important to underline the enormous diversity among countries and regions that have different mineral resources and policy traditions, trends, and objectives, all of which are reflective of distinct histories and contexts.

The article focuses more specifically on the role of large transnational companies in the industrial mining sector because it is here that strategies proposed in response to the pandemic have had particularly important consequences. This broad subject will be explored by examining the mining sector’s potential contribution to the longer-term social and economic development of the countries in which they operate (UNECA & AU 2011).

To draw lessons from the current pandemic, it is useful to adopt a holistic, multi-scale, and, at the same time, country-specific approach. The perspective also needs to take into account the relations of influence and power among concerned actors (Béland et al. 2021). This article focuses on corporate influence in the mining sector to draw attention to pre-existing power asymmetries that the current health crisis has made all the more manifest. While many of the examples given are from the African continent, experiences in other areas of the world will also serve as illustrations.

This contribution in no way claims to provide a comprehensive overview of transnational mining actors’ corporate influence during the global pandemic, but rather seeks to illustrate certain trends that have been amplified by the current context and their possible consequences. Additional research would certainly be useful, particularly in view of the fact that the situation is constantly evolving.

The article is organised in three sections. Drawing on the contributions of heterodox international political economy, the first section situates the discussion of corporate influence

in a political economy perspective. History and context are important in understanding how, in a wide variety of situations, regulatory frameworks aimed at opening the mining sector to foreign investment through liberalisation have perpetuated patterns of extraction that leave many resource-rich countries highly dependent on the export of untransformed ore. This is especially true in the Global South. Rather than gaining a certain amount of autonomy through the creation of local linkages to ensure that mining activities stimulate local transformation and integration into the national economy, producer countries are integrated into international supply chains over which they have little control, and which leave them vulnerable to market price fluctuations. The regulatory frameworks, policy decisions, and asymmetrical relations between public and private actors that explain such patterns are particularly important in understanding why the pandemic has accentuated existing power imbalances. The extensive economic liberalisation of the mining sector has resulted in state retrenchment and the “retreat of the state from the mediation of socio-economic relations,” leaving “private enterprise increasingly subject to social claims” (Szablowski 2007, 60). These trends, accompanied by intensified financial constraints, are exacerbated in periods of medical and sanitary crisis, as state actors increasingly turn to private actors to find short-term solutions.

The second section explores examples of corporate influence over states’ regulatory responsibilities during the pandemic. Two areas are examined: the renegotiation of fiscal concessions in the early months of the pandemic and decision-making processes concerning whether to keep mine sites open. The section documents, on the one hand, the position of defensiveness in which the pandemic has placed many mineral-rich countries and, on the other, the variety of positions public authorities have taken regarding whether mining should or should not be considered an “essential service.” The latter issue makes clear the power asymmetries of certain mining traditions as expressed, for example, in the key issue of consultation with local communities.

This discussion of corporate influence and companies’ evolving relationships with states (in part a result of the varieties of ways the mining sector has been liberalised, the ambiguities that result from the blurring of the distinction between public and private responsibilities, and the issues of legitimacy companies face as a result) serves as a point of departure for the third section. This section focuses on how large mining enterprises have responded to the pandemic. In the context of governments’ severe financial constraints, corporate actors have become directly involved in delivering health services, which has possible longer-term implications.

The conclusion offers a series of observations concerning corporate influence and corporate responses in the mining sector during the pandemic and possible areas for future research.

## Corporate influence

The notion of corporate influence covers numerous dimensions and could be approached from a wide variety of perspectives. In explaining increasing corporate influence, certain analysts

have placed emphasis on corporate consolidation and concentration, which has accelerated in recent years. In their analysis of the extractive and agriculture sectors, Clapp and Purugganan (2020) suggest a few reasons for such trends: “Technological change, weakening state legislation in an era of neoliberalism, and changing financial investment patterns have all contributed to these patterns of increasing consolidation in these sectors” (Clapp & Purugganan 2020, 1272).

Using a similarly holistic perspective, the approach adopted here draws on contributions from heterodox international political economy. This approach uses the concept of structural power and focuses on how corporate influence and control are leveraged through “structural power relations,” which are particularly characteristic of the extractive sector. The term “structural power relations” refers to the ability to create essential rules, norms, and modes of operation for various dimensions of a particular system, whether national or international. Although the notion of structural power Strange proposed (1994, 1996) has been the subject of considerable debate, her identification of power “as a type of causation derived from the structures of relationships among actors” (Cohen 2016, 114) is particularly useful when applied to the extractive sector. In this regard, regulatory frameworks in the mining sector can be understood as the expression of structural power relations and, at the same time, a key instrument contributing to the reproduction of such power relations linking powerful external actors (corporate, financial, diplomatic) to powerful internal ones, or influencing the relationship between local communities affected by mining activities and powerful internal actors.

The focus on regulatory frameworks permits contextualising different experiences while highlighting specificities and similarities. Research on the heritage of “free mining” regimes in Canada, which, as in other white colonial settlements, date back to the 19th century (Laforce et al. 2012), provided a lens through which to revisit the reforms and liberalisation of African mining regimes, and offers important insights for better understanding the structural power relations that help condition outcomes (Campbell 2010). More specifically, the free mining doctrine that animated the 19th century formulation of mining regimes in the American and British spheres, and that has persisted to this day in many respects, was based on four principles that informed reforms elsewhere. First, the principles inherent in free mining suggest that the development of the mining sector is not only desirable but should be prioritised over alternative uses of a particular territory. Second, the freedom of action permitted to mining entrepreneurs has conditioned the way most Canadian jurisdictions foresee or take into account participation by, or consultation with, affected communities when mining rights are granted. The process of formally consulting with and allowing for the participation of (oftentimes Indigenous) affected communities is generally deferred to a relatively advanced stage in mining projects. Third, the delegation of authority to mining companies through the principle of free mining also often undermines the authority of public institutions. Fourth, free access to a resource and the guaranteed right to exploit it constitute “a key structural issue that contributes to the preferential treatment enjoyed by the mining industry” (Campbell 2004, 1). This explains why regimes based on free mining are

characterised by an asymmetrical power structure that constrains local actors' negotiating space, limiting opportunities to choose a development strategy for their territory.

There are striking parallels between the Canadian situation and African states' strong retrenchment from the mining sector in the 1980s and 1990s that resulted from the liberalisation processes the Bretton Woods institutions imposed as a condition of financial relief. While presented as essentially economic reforms, these measures entailed important political dimensions, including:

1. the redefinition of the role of the state and a reduction of state sovereignty;
2. states' reduced autonomy and authority, as well as their reduced capacity to influence the evolution of their own structures;
3. the narrowing of mineral-rich states' margin of manoeuvre and policy space as a result of having to respond to an externally driven reform process; and
4. the emergence and prolongation of domestic structural power relations linking national decision makers to powerful foreign actors, whether corporate, financial, or diplomatic (Campbell 2010).

Understanding specific forms of the retrenchment of state authority is key to explaining the institutionalisation of asymmetrical relations of power and influence that have had and continue to have important consequences for local political processes, local participation, and community welfare.

Similar observations have been made concerning the liberalisation of the mining sector in other areas of the world, including Asia (Hatcher 2014). In his research on Latin America, Szablowski (2007, 28) analyses what he describes as the "selective absence" of the state:

While formal regulatory frameworks favour mining interests, mining enterprises are delegated significant degrees of both informal regulatory authority and responsibility for the social mediation of mining development. [...] Meanwhile, the state appears removed from these processes, seeking both to preserve its image as a sovereign neutral arbiter of the public interest and to avoid the responsibility and expense involved in direct mediation of the local costs of mine development (2007, 58).

One important consequence of the liberalisation of the mining sector has been the way in which the state's public functions have been increasingly delegated to private operators. These include service delivery, rule setting, and implementation. The blurring of responsibilities and the ambiguities that such situations may at times produce explains why companies may find themselves dealing with communities' demands and expectations. This situation risks degenerating into conflict and increased concerns over ensuring the security of mining activities.

In contexts of governments' weakened capacity or willingness to ensure their own regulations are respected, of the absence of measures to ensure more transparent and equitable negotiation of regimes and contracts, and of the disappointing contribution of the extractive sector to local and national development, mining companies have increasingly faced problems related to the legitimacy

of their activities. This is in part what has led to the growing search for “social acceptability” (Campbell & Prémont 2017) and the emphasis on corporate social responsibility strategies (CSR), discussed below. However, no amount of CSR can correct the deeply engrained and country-specific structural issues at the origin of these legitimacy problems. At the root of these structural issues are deeply entrenched asymmetrical relations of power that continue to shape mineral-rich countries’ political space for change, notably in Africa (Béland et al. 2021) but also elsewhere in the Global South. These dimensions take on particular importance in the context of the pandemic, which has tended to further erode states’ regulatory authority, as discussed below.

There is in fact good reason to question whether the current emphasis on the enlargement of the scope of CSR strategies to include delivery of social services, notably in the health sector, is appropriate. Among the questions it will be important to research more fully is whether practices that have emerged during the pandemic will reproduce the shortfalls of previous disaggregated short-term agendas and bolster the past mining model to the detriment of new approaches and the appropriation of more coherent inter-sectoral social and economic development objectives and their implementation through public policies.

## Renegotiating fiscal concessions and decisions to maintain operations during the pandemic

Keeping in mind that the lens through which this article approaches the broad subject of corporate influence and the global pandemic is the mining sector’s potential contribution to the longer-term social and economic development of the countries concerned, this section examines how the early months of the pandemic presented an opportunity for companies to renegotiate the terms of their agreements with governments and how this may impact governments’ ability to reach their objectives and respect their obligations. This section draws attention to the power imbalances that contribute to shaping negotiation space during the current crisis. It focuses on two areas (i.e., the renegotiation of fiscal concessions and decisions concerning whether to keep mine sites open during the pandemic) to illustrate transnational companies’ interactions with the public agencies responsible for monitoring and enforcing mining regulations. Because of the ongoing nature of current processes, observations made here must be seen as being in constant evolution.

### Renegotiating fiscal concessions

Initially, the pandemic caused a significant contraction in demand as industrial production and construction was halted across a large swathe of the planet. This “caused dramatic falls in the prices of a range of metals and minerals across March and April 2020... [These were] most dramatic for aluminium and copper” (Laing 2020. See also, World Bank 2020). This is the

context in which companies attempted to renegotiate fiscal concessions, as discussed below. As the world's economies started to pick up in early 2021 following, among other things, the introduction of vaccines, metal prices, especially iron ore (The Economist 2021b), rose sharply (Williams 2020) before some began to fall again (Löf 2021).

While some analysts began to speak of another supercycle when prices spiked, others were more cautious, in part because numerous governments have embraced a “new type of [i.e., greener] transformation” (The Economist 2021a). These more cautious observers affirm that prices are more likely to be volatile than to continue rising. Löf's October 2021 data seems to support this view. Also, as the World Bank's *Commodities Markets Outlook* warned in April 2021, “Metal price shocks appear to have asymmetric impacts, with price increases associated with small, temporary expansions in activity, but price declines associated with more pronounced growth slowdowns and fiscal and export revenue losses” (World Bank 2021, 7).

It is important not to attempt to predict the future. Nevertheless, three key points can be made. First, the pandemic exposed the vulnerability of mineral-rich countries in the Global South, particularly those highly dependent on the mining sector. Second, given the importance of the concessions companies sought, expert groups' recommendations for vigilance are instructive, especially if mineral-rich countries are faced with demands for immediate and generous concessions should prices and construction decline in the future. Third, it is far less certain that the mining companies' concessions won during the downswing will be renegotiated to pre-pandemic levels.

When faced with a rapid decline in metal prices, the main concern for mineral-dependent countries is not only declining fiscal revenues, but possible balance-of-payment crises. In early 2020, the concern for more than 20 countries where mineral exports are the primary source of foreign currency was that they would not have enough currency reserves to pay for imports or service external debts. At the time, as “export dependence, foreign reserve and credit default swap (CDS) spread [...], several African countries, including DRC, Guinea, Mauritania, Sierra Leone and Zambia, are at high risk of these dual crises” (Bauer 2020). Lower mineral prices put pressure on numerous national economies such as Chile and Peru, where a 10% drop in commodity prices could cost more than 1% in GDP growth (Corrick et al. 2020).

In view of many developing economies' heavy dependence on mining (Ericsson & Löf 2019), and in the context of the pandemic, mineral-rich countries were caught between several contradictory imperatives. On the one hand, they had to mobilise funds to respond to pressing health needs and intervene on that front to prevent the spread of COVID, avoid economic collapse, and stimulate economic recovery. On the other, they were called on to provide economic relief to the mining sector, including by accommodating tax policy, to maintain economic activity and mining receipts. An interesting option is to turn to state-owned companies for help where these exist. The Chilean finance ministry, for example, required the National Copper Corporation (CODELCO) to pay taxes monthly rather than yearly, and to advance payments of its export tax (Corrick et al. 2020). This is more the exception than the norm.

Ghana, which many consider a well-governed mineral-rich country, offers an example of the lack of margin of manoeuvre situations like a pandemic may produce. To sustain public spending under the crushing weight of a debt that was expected to equal almost 70% of GDP in 2020, the government of Ghana, Africa's largest gold producer in 2019, proposed to sell the rights to most of the government's bullion royalties. The deal, seen by some as a model for other resource-rich developing countries, aimed to provide cash now against income from royalties in the future. For others, the implications of such a strategy in terms of narrowing space for future negotiations over royalty rates and the country's bargaining margin more generally were clear (The Economist 2020). Ghana risked deepening relations of dependence and accentuating imbalances in the government's relations with transnational enterprises in the mining sector.

Industry pressure on governments in the initial phase of the pandemic was real and widespread: "mining companies, employees and business associations are pressuring officials for tax relief and subsidies as compensation for shutdowns, sometimes successfully" (Bauer 2020). Zimbabwe granted waivers on royalties in its mining sector, and Zambia suspended some export and import duties related to the sector (Busingye 2020).

Faced with a contraction of demand and a drop in prices, the challenges governments faced were amplified by the absence of common regulatory frameworks to facilitate a more global and coordinated response to companies' demands to renegotiate operating agreements. Each country has its own mining code, which is a combination of statute law, regulations, and agreements that governs the allocation, tenure, and operation of mining rights. Agreements are bilateral contracts negotiated with individual mining companies, which makes the situation all the more challenging administratively.

The subsequent upswing in prices may well usher in a period of high volatility. The price instability that has accompanied the pandemic provoked responses that merit careful attention. Recommendations from specialised bodies advising governments on how to proceed are revealing of the mining sector's complexity and point to pitfalls to be avoided as companies seek to take advantage of the pandemic to gain more favorable conditions. The International Institute for Sustainable Development (IISD) concluded:

Some mining and commodity trading companies could actually make more profit during the crisis and should not benefit from state aid. Governments could also limit any relief to companies currently under development or production, which employ a significant workforce. The priority for tax relief should be on existing mines, not on new and uncertain investments. Any tax relief should go to the locally incorporated and licensed company, not a foreign entity or parent company in another jurisdiction (Corrick et al. 2020).

The same IISD report's suggestions regarding the conditions that should accompany government financial relief to the mining sector are illustrative of the risks involved with accentuating power imbalances and the need to devise ways to counter these risks:



during the period that companies benefit from state aid, governments could require them to:

- Retain all workers, or at a minimum an agreed percentage of workers, at regular salaries.
- Withhold bonuses, and salary increases for company executives and potentially defer payment.
- Cancel dividend payments to shareholders except those connected to the government's equity stake.
- Abandon all artificial tax avoidance arrangements (Corrick et al. 2020, 4).

A National Resource Governance Institute study also suggests caution and affirms that financial relief measures for mines “should support mine workers and foreign exchange generation rather than shareholders” (Bauer 2020). The author emphasises that despite pressures on governments, there is a need to:

Resist impulsive tax relief and subsidy measures. Mineral prices are likely to trend toward their medium-term averages, though it is difficult to know when, given global uncertainty around demand and coronavirus containment. [...] There are serious risks associated with renegotiating mining contracts or changing tax regimes in a manner that fails to capture future profit increases. Past experience shows that governments often fail to cancel tax relief after prices have risen again (Bauer 2020).

Recommendations to governments that are under pressure to provide fiscal relief to companies point to the need to resist measures that might accentuate existing power imbalances. Authorities should design financial relief measures for mines to meet specific policy goals, and only offer relief for historically low commodity prices (Bauer 2020). Moreover, such targeted measures should be temporary. Other recommendations include attaching additional conditions to tax exemptions, for example requiring companies to adopt responsible tax principles and become an Extractive Industries Transparency Initiative supporting company (Corrick et al. 2020). To redress rather than aggravate relations of dependence, the IISD adds:

They could also require company directors to sign a public pledge making them personally liable for aggressive tax planning, and subject to corresponding penalties; Adopt modern, transparent, and fair transfer pricing practices; Adopt transparent pricing for all mineral sales, based on international benchmark prices (Corrick et al. 2020, 4).

The pandemic has underlined the need to overhaul many sectors. Rather than adopt a short-term, piecemeal approach, the current crisis could be seized as an opportunity for governments to revisit the overall coherence of policies with longer-term development objectives. For example, this could include putting an end to offshore accounts (Tax Justice Network-Africa and Actionaid 2015) and strengthening fiscal regimes to ensure that companies pay their fair share of taxes and help rebuild government finances in the future. Past proposals take on renewed pertinence in

the present context. This includes the introduction of an excess profit tax that would come into effect once companies make substantial levels of profits, or the understanding that certain forms of state aid, such as a capital injection in a mine, give governments the right to additional equity or repayment in future mineral production (Corrick et al. 2020).

## Decisions about whether to keep mine sites open during the pandemic

Negotiations about whether to keep mines open during the pandemic are revealing of the power dynamics between companies, governments, workers, and affected communities. While this is a difficult subject to analyse because it is constantly evolving, a wide variety of experiences can be observed. This diversity once again underlines the consequences of the inexistence or lack of enforcement of overall regulatory frameworks that could serve as a standard in a time of crisis. In this regard, mining unions in South Africa have called for due diligence and adherence to health and safety standards to contain the spread of COVID-19 (Industrial Global Union 2020). Also in South Africa, the Association of Mine Workers and Construction Unions went to court to request adequate health and safety guidelines and protocols to protect mine site employees (Ramdoo 2020).

Decisions about keeping mines open during the pandemic must balance priorities related to protecting health and maintaining economic activities. Each has implications not only for the workers concerned and their communities, but also for the struggle against the pandemic more generally. The diversity of responses draws attention to different mining traditions, regulatory frameworks and failures, and, in this context, the influence that large mining enterprises may exercise over the governments of mineral-rich countries.

Because of the enormous variation among countries and regions, generalisations would be hazardous; however, certain patterns merit further attention. The first concerns the issue of shared regulatory heritages. In countries where the development of the mining sector has not only been considered desirable but has been prioritised over alternative uses of a particular territory, there has been a tendency to maintain mining operations. Governments in countries such as the US, Canada, Australia, and South Africa, all of which have a regulatory heritage of “free mining” dating back to white colonial settlement in the 19th century, have declared mineral exploration, processing, and the related supply of goods and services as “essential.” At the end of March 2020, the US Department of Homeland Security listed mine workers as “essential critical infrastructure workers” and deemed miners vital to the national effort against the COVID-19 pandemic (Department of Homeland Security 2020).

In Australia, where mining was also declared an essential service, certain companies have adopted measures to support workers, illustrating the shifting boundaries between public and private responsibilities, discussed below. In South Africa, Anglo American paid contributions to medical and pension funds during the lockdown period, in addition to paying employees’ basic salaries and guaranteeing housing allowances (Mining.com 2020).

In countries with other regulatory traditions where regulatory frameworks have been liberalised to attract mining investment, experiences vary enormously. Although it is an important producer of silver, copper, gold, and other minerals, Mexico declared mining a non-essential activity to be suspended (Harris 2020). Other jurisdictions such as the Philippines, Peru, Brazil, and Colombia have opted to maintain mining activities. Although Colombia was in mandatory preventive isolation until May 2020, mining activities continued because they were considered an essential activity for the development of the country (Reuters 2020).

In the absence of a nationwide ban, opposition to maintaining or restarting mining activities during the pandemic has at times been focused at the municipal level. In Ecuador, the mayor of the Zamora is reported to have affirmed his support for those opposed to continuing activities at the Fruta del Norte mine due to concerns about COVID-19. He is said to have commented that, “First comes health, then comes gold” (quoted in MiningWatch Canada 2020, 11).

While many companies have committed to taking measures to ensure employee health and safety, there are no international guidelines that governments could enforce to keep operations safe. Consequently, as seen in Zimbabwe in April 2020, the Zimbabwe Diamond and Allied Workers Union reported that mine workers are at high risk of contracting COVID-19, as most mines had not yet adhered to stipulated public health guidelines (Business & Human Rights Resource Centre 2020).

In Canada, the pandemic has brought existing tensions concerning mining operations in remote areas and involving First Nations to the fore. This can be seen, for example, in the Quebec Minister for Energy and Natural Resources’ decision to announce the resumption of mining activities in mid-April 2020. This was only three weeks after measures had been introduced to halt activities to counter the pandemic. News that the mining sector had been added to the list of priority activities in Quebec was met with concern from certain Indigenous leaders in the province, including Ghislain Picard, grand chief of the Assembly of First Nations Quebec-Labrador: “Quebec’s decision to allow the resumption of mining operations in a hurry is dangerously compromising the efforts made by our communities to slow the spread of [COVID-19]” (Bell 2020).

Many of the 22 mining operations in Quebec are located near First Nations communities and employ Indigenous residents. Because of the remoteness of certain mines, the presence of workers who fly in and fly out aggravates the public health situation. The government’s unilateral decision to resume mining activities is evidence of asymmetrical relations in the mining sector. As Picard noted, “the pandemic does not exempt governments from their duty to consult” (Bell 2020).

First Nations communities have expressed similar concerns in other Canadian provinces. Ontario declared mining an essential service, prompting the chief of Neskantaga First Nation in the northern part of the province to argue that continued exploration was putting an undue burden on remote northern communities. It was too difficult for meaningful consultation to take place while communities were also dealing with the pandemic. As a result, communities called on Ontario’s Minister of Energy, Northern Development and Mines to stop the “business as usual” approach in June 2020 and bring a halt to mineral staking, permitting, and approval in areas

subject to Treaty rights during the COVID-19 pandemic (Hadley 2020). According to a research fellow at the Yellowhead Institute, advancing resource extraction projects during a pandemic is an example of government and industry using the health crisis in First Nations communities to their advantage (Hadley 2020).

Canadian examples involving the failure to respect obligations to Indigenous communities spelled out in provincial regulations and the absence of federal adherence to International Labour Organisation (ILO) Convention 169 are evidence of the legacy of Canada's regulatory heritage and the asymmetrical power relations that continue to characterise the sector, notably concerning relations with First Nations. They also illustrate the importance of historical specificity and the structural power relations at play in explaining recent developments.

Even a cursory overview reveals that the health and well-being of workers and local communities has not always been the priority for either companies or governments during the COVID-19 pandemic, particularly in situations of power imbalances. Given recurrent problems concerning certain mining companies' respect for existing regulations and obligations, it seems important that minimum standards regarding health and safety are consistently applied to protect all workers, across all mining companies, within a given jurisdiction (Mining.com 2020).

## Corporate involvement in the delivery of health services during the pandemic

This third section focuses on ways in which mining companies have become directly involved in responses to the pandemic. On one level, corporate support in finding solutions during a health emergency can be considered positive and welcomed. It does, however, raise a series of considerations that will be explored here. First, companies rarely have the mandate, authority, capacity, or expertise to address complex health challenges (Tripathi 2020, 253). Second, the question arises as to how companies might use such involvement to influence decision makers and increase their legitimacy in the eyes of the population. Finally, the longer-term implications of corporate involvement in the delivery of health services on local health systems must be considered.

Even in a health emergency, the issue as to which actors are best placed to deliver health services remains paramount. For example, individual companies' decision to supply test kits to affected communities and workers may not be in keeping with states' efforts to ensure equitable public access to tests. Certain companies have reported being involved in the distribution of health and sanitary packages such as hand sanitizer, food supplies, and medical advice, and declare having done so with the guidance of local and federal health authorities. However, if such support is not channelled in a manner that reinforces local institutional capacities, but rather tends to sidestep them, company initiatives may serve to stall or even distract from necessary efforts to find longer-term solutions for problems there is every reason to believe will reoccur. Also, the distribution of food supplies to certain communities, notably those surrounding mine sites, raises questions about equity. Such strategies may exacerbate already existing disparities rather than contribute to

much needed social cohesion. Finally, to fully grasp the significance of corporate involvement in the response to COVID, it is important that it be contextualised and, where pertinent, take into account the existence and forms of resistance and contestation that mining projects have at times provoked in contexts of narrowing political space (Szablowski & Campbell 2019).

Companies' strategies for combatting COVID and the way these initiatives are implemented raise questions as to how corporate support may serve as a potential means for companies to gain influence over decision makers and legitimate their operations. Certain large companies have opted to make important financial contributions to be used for medical and social aid. In Côte d'Ivoire, a mining company made a large financial contribution to be used for protective equipment and sanitary materials directly to the Minister of Mines (Bristow 2020). Amounting to about half the total contribution, a portion was to be used at the regional level where activities are located, and another was to go to the district and communities around the company mine site. In Senegal, with the Minister of Mines and Geology present, Barrick Gold offered support to the Minister of Finance (Barrick Gold Corporation 2020).

In situations where relations of power between state and corporate actors are already asymmetrical, questions arise as to whether important financial contributions will serve to pressure decision makers to negotiate certain privileges or to keep mining activities operating when there is good reason to close them for health reasons. This appears to have been the case in Brazil. In March 2020, shortly after the mining industry promised to donate millions of testing kits to the Federal Government, it was decided that the extraction, commercialisation, transportation, and supply of mineral goods were essential activities (MiningWatch Canada 2020, 4).

Where relations with local communities have been difficult, mining companies' decision to purchase and deliver medical supplies during the pandemic may appear to be an attempt to regain social license. In Guinea, Rusal's Fria site was closed from 2012 to 2018. Relations between the company and the population were strained during this time because the city had depended on the company for jobs, electricity, and water (Camara 2017). In February 2021, Rusal was granted the Guinea Best Company Awards for its corporate social responsibility during the pandemic (Bangoura 2021).

The question as to whether companies have the mandate, authority, capacity, or expertise to address complex health challenges raises broader issues concerning the role and impact of CSR more generally. These issues take on renewed importance because CSR measures have become more present during the pandemic.

As noted in the first section, the process of liberalisation of the mining sector, the transfer of what were formerly considered state-like responsibilities to private actors and the weakening of the state's capacities to ensure regulations are implemented, have led to legitimacy problems for certain companies. The blurring of responsibilities and ambiguities that such situations at times produce explains why, in the name of CSR, companies may find themselves addressing communities' demands and expectations directly. These trends have clearly been exacerbated

during the pandemic and call for a renewal of debate that, given the urgency of responding to the current health crisis, could easily be swept aside more permanently.

The tendency is for mining companies to place increasing emphasis on CSR strategies while simultaneously continuing their former fiscal, employment, and production strategies that have, on the one hand, proven quite disappointing in terms of promoting social and economic development and, on the other, brought the legitimacy of their operations into question (Campbell 2020). Moreover, while CSR measures may contribute to reinforcing companies' social license, structural and deeply rooted asymmetrical relations of power perpetuated by existing regulatory frameworks remain very much in place.

Taking a longer-term perspective, the current emphasis on social acceptance and CSR may in fact serve to distract from deeper issues and delay identifying the regulatory weaknesses that are at the origin of the legitimacy problems companies face. More attention clearly needs to be given to questions about the potential role of well-managed mining revenues to increase access to health care (Ridde et al. 2015); appropriately designed public policies, including effective and efficient tax systems; the elimination of corporate income tax holidays and incentives; and addressing tax evasion through practices such as transfer mispricing (Tax Justice Network-Africa and Actionaid 2015). The pandemic has underlined that clarifying the respective roles and responsibilities of public and private actors in the area of CSR is of central importance:

From a policy perspective, CSR initiatives should not be considered a substitute for government responsibility towards its citizens in providing basic infrastructure and other public goods. Indeed, CSR initiatives should complement government efforts through local government institutions and local authorities. The framework that a government chooses to entrench CSR should be clear about the responsibilities of mining companies and which responsibilities should be matched with and communicated to mining communities (UNECA & AU 2011, 89).

The current crisis offers the possibility to examine the appropriateness of different options depending on whether the focus remains the short or the longer-term. The pandemic has provided the opportunity to clarify the state's responsibilities to its citizens and how a mining company's CSR complements the state's efforts. As the UN Economic Commission for Africa report suggests:

In many African countries the coordination between state planning and investment and CSR investments is inadequate. More significant, CSR could reduce the motivation of government to fulfil its responsibilities to its citizens, and the latter could come to see the company as the provider of those services that they should be looking to the state for" (UNECA & AU 2011, 88).

Better coordination between planning and investment of state and corporate outlays under CSR could improve the value of both streams of expenditure. In the health sector, "the sustainable

use of a [...] clinic built as part of CSR is better assured if the project is coordinated with the state—to ensure that it fits into a larger plan and that the state can support health staff [...] should the mine cease its support” (UNECA & AU 2011, 88).

In parallel, although beyond the scope of this article, the pandemic has also highlighted the need to take account of equity and sustainability in building resilient public health systems. This is especially true since there is every reason to believe that there will be more pandemics in the future (Garrett 2019; Morens & Fauci 2020).

## Conclusion

The perspective adopted here has drawn attention to the importance of structural power relations and power asymmetries in shaping current processes and decision-making spaces that condition outcomes. Historical and context specificity are important in understanding how regulatory frameworks have perpetuated extraction patterns that leave many resource-rich countries highly dependent on the mining sector and corporate actors.

The issues examined are revealing of the shortcomings past policies have created and the absence of regulatory frameworks for mining that would permit more global and coordinated responses to the pandemic. They are also revealing of the shortcomings of not having more adequate public health services in place, which has on occasion allowed companies to assume responsibilities that would normally fall to the public sector.

Observations from the mining sector concerning corporate influence and the global pandemic suggest that mineral-rich countries have at times been caught between contradictory imperatives, notably balancing health concerns with economic recovery. Governments under pressure to bring fiscal relief to mining companies in the short term may do so at the risk of foregoing future revenue that would be essential for longer-term economic development.

Decisions concerning whether to declare mining an “essential activity” during the pandemic have brought to the forefront pressing concerns over health and the infringement of rights due to the absence of consultation over the expansion of mining operations. These tensions speak to the dependence and vulnerability of many countries and communities regarding the mining sector, and the corporate actors responsible for operations.

However, because the pandemic has brought the vulnerabilities of past mining regimes and the weaknesses of regulatory frameworks to light, and because it has exposed the risks involved in seeking short-term solutions, the current health crisis can also be seen as an opportunity to revisit practices and policies.

Longer-term solutions will necessarily involve a righting of often increasingly asymmetrical relations. This entails clarifying responsibilities and assuring mechanisms for ensuring accountability not only within the mining sector but between this sector and others, notably the health sector. Regulatory heritages, the types of agreements negotiated in the mining sector, and a certain

perspective concerning social acceptability that has fostered direct negotiation between communities and industry, all take for granted or support the withdrawal or selective absence of public authorities and, consequently, overlook their potential roles and responsibilities. By failing to strengthen the role of public regulation in protecting local populations, based on the assumption that private mining companies are better equipped to pursue the public interest, current responses shy away from the potentially central role of public policies that might use natural resources as a transformative catalyst to spur social and economic structural shifts in favour of more equitable and environmentally sustainable economic and social development in the long term (Campbell & Prémont 2017).

Among the questions it would be important to research more fully is whether new practices that have emerged during the pandemic will continue, and if they will reproduce the shortfalls of the disaggregated short-term agendas of the past and bolster the past mining model at the expense of coherent inter-sectoral social and economic development objectives and their implementation through public policies. The critical importance of reinforcing rather than side-stepping the role of state actors, revisiting the demarcation of public and private spheres of authority and responsibility, and the failures of past regulatory frameworks to promote longer-term development objectives, also represent promising new areas for research. Future research might address the current absence of frameworks and protocols that would permit more global and coordinated responses to the challenges the mining sector faces. The issues addressed in this article open new areas of research and offer new avenues for addressing the challenges to the legitimacy of companies and the power imbalances that accompany mining activities in the different jurisdictions considered here.

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