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Research article

A return to responsibility: A critique of the single actor strategic model of CSR

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ABSTRACT

Any functional utility gained through corporate social responsibility (CSR) depends on "responsibility" as the governing principle between "corporate" and "social" interests. We argue that Porter and Kramer's highly popularised notion of "shared value" has been pivotal to the erosion of responsibility as a moderating concept in CSR. Under this approach, "strategic" CSR becomes an instrument to leverage corporate advantage, rather than fulfil social responsibilities and address business-related harms. In mining, this approach has supported shallow, derivative ideas including the wellknown CSR artefact: "social license to operate" (SLTO). We argue that CSR, and the related concept corporate social irresponsibility (CSI), suffer from the single actor problem, where the corporation too easily becomes the exclusive focus of analysis. We advocate for a reinvigorated debate about mining and social responsibility in which the corporation is but one actor in the (ir)responsibility landscape.

1. Introduction

When terminology reaches the type of saturation point enjoyed by the phrase "corporate social responsibility" (CSR), two pathways seem inevitable. First, that the term becomes, according to the popular adage 'all things to all people' or second, that mounting records of disparate interpretation dilute the terminology of any common meaning. We argue that CSR has not fallen victim to either of these inevitabilities. CSR most certainly does not belong to all people, and while much dilution is obvious, the major impact has been to the state of the debate itself. A summary of the intellectual discourse shows a healthy thematic rigour up until a cynical turn marked by Porter and Kramer's (2006) endeavour to shift from "responsive" to "strategic" CSR. While overtly focused on the corporation, earlier debates centre their questions on how responsive businesses are to other interests (Hamann and Kapelus, 2004). Subsequent eras saw the invention or mass promotion of "responsibility-free" constructs aimed at enhancing CSR credentials without the burden of empirical evidence or the rigour of earlier ideas about the conduct and governance of corporations.

The "agency problem", as it is known across business and legal disciplines, accepts the right of corporations to pursue their own self-interest free of external constraints (Dalton et al., 2007; Hansmann and Kraakman, 2004). This problem extends to the ownership and management of the corporation, such that determining who or what holds which responsibilities within these structures can become difficult to determine. It is clear from the existing literature that external stakeholders have fared poorly in their efforts to penetrate the defences of limited liability organisations. Even shareholders can find themselves frustrated by the legal obligation of corporations to pursue their own interests. As we argue in this paper, CSR derives too much of its logical and motivational substance from this agency problem, when creating responsible outcomes in markets cannot, and indeed never does, fall on a single institutional actor. The framing of CSR as a problem associated with the activities or outcomes of a single actor, self-regulating within highly enabling legal boundaries has resulted in a frustrating, and in many respects, futile conversation. Responsibility outcomes are better viewed from the vantage point of multiple institutional actors accepting or defaulting on their respective roles and obligations.

The paper begins with a brief review of CSR ideas before and after this cynical turn. The ideas, post-turn, include the well-known CSR artefact: social license to operate (SLTO). We approach this review from a critical standpoint based on how these ideas have been represented by scholars and their infusion and use by the mining industry. A less popular construct in this post-turn era is corporate social irresponsibility (CSI), which re-orientates the embedded cynicism in "shared value" and "social licence" through analytic questions about the activities and

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outcomes of corporations. In the concluding sections we argue for a multi-actor approach to CSR in which the corporation and its actions are but one feature of the responsibility landscape.

We recognize the historical nature of these debates and the barriers to offering a fulsome critique when ideas have cast off into new fields of closely related inquiry. It is not possible, and for our purposes, not advantageous, to track down and digest each intellectual tangent and offshoot. The study of corporations is vast, especially with the rise and spread of multi-national enterprises. This does not mean, however, that the discourse on CSR is equally vast or naturally bound up in this contingent literature. To contain our brief, we note the importance of other domains of scholarship, including: critical management studies (Alvesson and Deetz, 1999; Alvesson and Willmott, 2012), resource governance (Ali et al., 2017; Lockwood et al., 2010), and corporate citizenship (Carroll, 1998; McIntosh, 1998) but focus specifically on the evolution of CSR discourse and its eventual intersection with academic and policy literature on mining corporations.

2. CSR discourse: from scholarly debate to cynical turn

In 1984, legal scholar Jerry Mashaw argued that the real dispute about CSR came down to a division between (legal) compliance critics and voluntarist apologists. This division, he maintains, was actualised by posing the question: "should corporations comply fully with established legal norms?" (Mashaw, 1984, p. 117). This seemingly simple question illuminates where the scholarly framing of CSR becomes problematic. As Mashaw explains, the compliance critics would hold that corporations should most certainly comply fully with the legal system. Voluntarists, by comparison, could argue that the laws either too lenient or too stringent, and in such cases, corporations would be best to judge for themselves. Mashaw goes on to highlight the complexity of this otherwise basic division; a complexity which in our view is best served by careful, rigorous, and unrelenting argumentation and debate.

This division is, in many respects, a caricature. It is, nonetheless, a helpful one because the difficult questions do not stop at whether a company should or should not fully comply with established legal norms. As a starting point, it presents scholars with the quandary of: from where do the social responsibilities for corporations emerge? If not established legal norms, then from which other set of historical, institutional, or behavioural norms should corporations be guided by, or forced to comply with? These questions, as Mashaw demonstrates, can head in multiple directions, but ultimately a corporation seeks to abide by or create "value" of one sort or another. Arguments about compliance or voluntarism provide a means for locating the logical pathways through which scholars, or corporations, reach their final positions about what values they prioritise, where those values are derived, and how they construct notions of accountability for whether (or not) they have abided by or created such value.

These debates about compliance, values, and voluntarism have taken place in a historical and political struggle over important ideas about what constitutes a good life, where individual and group freedoms intersect and end, understanding types of authority and whether institutions are needed to give purpose and protection to individuals and groups. Across a long temporal landscape of ideas, corporations are relatively novel entities, and so it is appropriate that, given their desired or actual function in society, the resources they develop and consume, and the opportunities and threats they create, that some depth of thought be applied to considering how best to define their responsibilities to society: their "corporate social responsibilities".

First published in 1953, Bowen's (2013) book *Social Responsibilities of the Businessman,* for instance, provides one of the first comprehensive discussions of business ethics and social responsibility in the post-war era. In the Introduction to the 2013 edition, Howard's son, Peter G. Bowen and colleagues, explain that re-publishing the book was important because:

> "[…] losing touch with a book that provides a sound conceptual basis for the study of social responsibility, students of CSR condemn themselves not only to intellectual amnesia, but also, potentially, to conceptual stagnation (2013, p. x).

This seems prescient given the current state of CSR scholarship, and the habit of jumping over seminal contributions to formulate and promote the next "fashionable" concept. Bowen's thinking precedes the advent of the multi-national corporation of the size, scale, and influence that we see today, reflecting a concept of social responsibility embedded in the lives and discourse of people, centuries earlier:

> From the moral point of view, there must be no such thing as unrestricted and irresponsible ownership. The owner is a trustee accountable to God and society." (2013, p. 33)

This is not to confuse free trade or free markets with markets that operate without due regard to social considerations. Scholars have shown a tendency to slip between suggesting that free markets can support responsibility, but when markets are free, they trend toward irresponsibility. The literature is not always clear on whether scholars are making this point (or slipping) on the strength of empirical observations, or that the conceptual notion of "freedom" equates too readily with unbridled self-interest. Consider the following from Bowen:

> The American people are in favor of continuing the system of private enterprise. They wish to preserve the freedom, the decentralization of decision-making, the flexibility, the incentives, the initiative, and the opportunity which this [free market] system provides. And they wish to reduce governmental regulation of business to the practicable minimum. On the other hand, and perhaps more urgently, they hope to avoid the instability, the insecurity, the injustice, and the social inefficiencies inherent in a system of unregulated and irresponsible private enterprise. Their aim is to evolve forms of social control under which business will remain essentially free and yet will serve the broader interests of society. (2013, p. 151)

Friedman (1970) is perhaps best known for suggesting that the only social responsibility of a corporation was strictly to its shareholders. This comment, on its own, has provided a treasure trove for CSR enthusiasts. There is the neo-liberal interpretation which provides corporations with a values-based reprieve from all interests aside from those of the business. In Friedman's free market, rational, utility-maximising shareholders invest their capital on the premise that corporations will operate to optimise their return on capital. This makes sense when investors and corporations operating in a free market are openly competing for their share of capital.

There are, however, other avenues through which to interrogate Friedman's suggestion. For instance, Friedman's suggestion about the primacy of the shareholder could easily be interpreted as having a legal or compliance basis on the grounds that corporations are duty-bound by law in most liberal democracies to work in the best interests of their shareholders. Friedman's remarks in *The New York Times* in 1970 on the obligatory limits of CSR are illustrative of where ideological lines have formed, and where the nuance in his thinking resides:

> … there is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud.

Friedman was no doubt careful in electing to use the phrase "within the rules of the game" over say "abides by the law" or "within the socially sanctioned moral or norms". But the point is that Friedman is referencing an institutional order of some kind, a position that is not terribly dissimilar to Stone (1975), himself a famous compliance advocate, who argued that legal institutions and constructs were but one of

many obligations to which corporations should consider in their dealings. Irrespective of their source, there is convergence across Mashaw's division about some basic rules and behavioural constructs that corporations operate within. In Friedman's quote, it is also worth noting the absence of normative drivers or phrases implying compulsion, such as "should", "ought" or "must", leaving the question of choosing legal compliance or voluntarism curiously open for continuing debate. These questions are distinct from problems of operability or implementation because assuming one can arrive at an agreeable singular understanding of CSR, we are then faced with the difficult task of designing a means by which to use it.

Increased involvement by government is frequently cited as a solution. Heilbronner (1976) maintained that encroachment by the state was also problematic. From his perspective, there can be no guarantees on the ideological orientation of governments when it comes to business or its regulation. In his work *Business Civilization in* Decline, he cautions against placing too much faith in the state, or in the persuasive rhetoric of CSR:

> As the business world becomes merged with or submerged beneath a national economic state, the social responsibility of corporations or ministries becomes less and less distinguishable from that of government itself. This by no means solves the problem of responsible behavior, for we have learned that nationalization is no cure – all for the misbehavior of the corporation. Indeed, it maybe more difficult to fix responsibility and accountability on large units that operate under the cloak of the public interest than on those that cannot pretend to more than a private interest (1976, p.37).

Against this somewhat cautious and reflective discourse, a revolutionary turn emerged with Porter and Kramer's (2011) "shared value" concept. This much cited construct by two Harvard scholars, appears to reconstruct an enlightened world-view in which businesses exist in a competitive context that is effectively enabled by social institutions (2006). For many academics, the shared value construct defined a new era in "stakeholdership" (Nwanji and Howell, 2007) where businesses rationally choose to invest in social institutions because it enhances the environmental, financial, and economic context from which they draw resources, produce goods, and distribute benefits. Porter and Kramer's work, perhaps more than the most optimistic voluntaristic interpretation of Friedman's "shareholdership" approach, was taken as permission by industry and academics to assume that corporations were rationally enlightened actors, and their continued prominence in markets were evidence that the goods they produced were contributing to a kind of shared value for the whole of society to enjoy. This nested view of CSR has been contrasted against earlier theorisations as contributing a new "strategic" rather than a "responsive" approach to understanding the role and place of corporations in society (Bosch-Badia et al., 2013).

Our argument in this article is that scholars and industry have interpreted this new brand of stakeholdership (akin to "brinkmanship" where parties indulge in recognisable and potentially dangerous risks before agreeing to act) as no longer governed or underpinned by notions of responsibility. CSR becomes an instrument to leverage corporate advantage, rather than fulfil social responsibilities or address business-related harms. In the following sections we review another discursive trend in CSR that has gained and lost prominence in the global mining industry, namely social license to operate (SLTO) as an example of how strategic CSR approaches the rights and obligations of corporations.

3. Responsibility-free social licence to operate

Our contention is that any functional utility that is gained through CSR depends on "responsibility" as the governing or agitating principle between "corporate" and "social" interests. In the previous section, we argued that Porter and Kramer's (2006) strategic statement has been pivotal to the erosion of "responsibility" as a moderating concept in mining and CSR. The most explicit expression of this evolutionary cynicism in CSR discourse can be found in the coining and later broadcasting of the phrase 'the social license to operate'. In the landmark report Breaking New Ground: Mining, Minerals and Sustainable Development (IIED, 2002) commissioned by the World Business Council for Sustainable Development, the meaning of "social license" is operationalised into three categories for the reader. These are provided in full below, with surrounding text, to avoid any concern about selective referencing:

> 1. A commitment to sustainable development may enhance a company's profile and reputation. This has several advantages. It may be the best way to attract the best people to mining careers, or for an individual company to get better new employees than its competitors. Externally this should lead to an improved social licence to operate: companies attempting to explore for, define, or develop deposits will be more welcome by host nations and local communities if they arrive with a clear vision of themselves as agents of sustainable development. Good relations and acceptance in the local community can reduce the time required to get government approval and lower the possibility of conflict, both of which can be very costly (2002, pp. 116–117)
>
> 2. Even though leading companies state in their public reports that they recognize the need to negotiate with indigenous communities, there is still a great deal of uncertainty around policy process and practice with regard to land access. Further, the demands of public opinion in the home countries of international companies may be at variance with what local intermediaries tell the companies are the "traditional" or best way to get things done. Nevertheless, this is not an excuse for errant practice. If the historic patterns of mining in or near the resources claimed by indigenous peoples continue, all stakeholders face escalating costs and the whole sector faces a continued erosion of its social licence to operate in indigenous territories (2002, p. 156)
>
> 3. As guests, mining companies need not just official permission to work but also a less tangible but equally vital "social licence" to operate. They can only gain this—and regularly renew it—if their activities are evidently making a valuable economic and social contribution. When local people see the distribution of revenues to be unjust, they are likely to protest and even evict their guests (2002, p. 185).

Breaking New Ground is, as the title suggests, an important historical document for the mining industry. The surrounding language provides helpful context for interpreting what the authors of the report intended by social license: social acceptance and access to land. These concepts moderate corporate and social interests but not through "responsibility". The principal focus in the descriptions offered by the authors of *Breaking New Ground* is for mining proponents to gain greater certainty over their interests, which is to suggest that local communities or stakeholders are able to exercise some power or influence in way that detracts from a corporation's core interest. SLTO, as read in the paragraphs above, is a means through which to limit the ability of communities or stakeholders to constrain the interests of the business. There is no mention or invocation of responsibility in the interface between corporate and social interests. The industry's conception of SLTO is explicit in its objective: social interests are something that a corporation must endeavour to overcome.

Efforts to operationalise this objective were forthcoming in the academic literature. Azapagic (2004), for example, was a fast adopter of the concept and presented one of the earliest depictions of the steps a mining corporation could take in organising itself to manage the problem of stakeholder interests. The departure from responsibility-centred CSR was immediately evident, and at the same time curious given the persistence of responsibility-compatible constructs apparently similar to SLTO. Goyder's (1999) proposition, which pre-dates *Breaking New Ground*, was anchored in the deep veins of CSR and is illustrative of what

SLTO was seeking to leave behind:

> Throughout the world, business is subordinate to society. Its freedom to operate depends upon the explicit permission granted by governments through law and regulation, and the implicit permission granted by the society which nurtures it, and by all the people with whom it deals. This informal licence to operate has always existed. What has changed with the emergence of information and communications technology is the power of individuals or highly focused non-governmental organizations to hold large corporations rapidly to account. (emphasis added).

Graafland (2002), writing in the *Journal of Business Ethics*, the very year that *Breaking New Ground* was published, argued that a central challenge in debates about social responsibility and the license to operate is that unethical practices can at times provide greater competitive advantage for companies (2002). Without clear upside arguments for investing in social responsibility, the business case for a company to mitigate against its own self-interest becomes highly problematic.

Over the intervening two decades the balance of scholarly papers has fallen disproportionately towards operationalising SLTO. Several authors, writing on the license to operate in mining refer to principle-based constructs like trust and legitimacy, however these efforts are almost entirely formed within a stakeholdership approach, similar to that explicated by Azapagic (2004). For example, Parsons and Moffat (2014) focus on what managers think about mining's "relationship" with society, rather than its responsibilities. This slip to another concept severs the analytical connection to responsibility, and the CSR literature which the authors claim to contribute. Stakeholder relations under SLTO is a product of the "stakeholdership" genre of CSR, which drives minimum action to achieve acceptance and land access. Likewise, Hall et al. (2015) suggest that SLTO springs from CSR and yet fail to engage questions of responsibility instead exploring how different industrial sectors adopt SLTO practices from each other and negotiate a SLTO with affected communities. Zhang et al. (2018) identify pre-conditions for SLTO in mining through an experimental methodology based on a fictitious mining company. This is perhaps appropriate given that SLTO is a fictitious concept that evades the need for companies to think about their social responsibilities while pursuing their self-interests. The choice of these and other scholars to adhere closely to the language of Breaking New Ground screams volumes with respect to the alignment of scholarship with the corporate goals of social acceptance and access to land (Moffat and Zhang, 2014). We argue that proponents of SLTO have succeeded in breaking new ground by promoting a fission within the CSR discourse that severs its long-standing dependence on "responsibility" as its binding concept.

4. Corporate social irresponsibility and a return to evidence

In a previous paper, we argued that CSI serves as a useful analytic means through which to recalibrate debates about social responsibility in mining (Kemp and Owen, 2022). The need for recalibration is demonstrated by analytically weak constructs like shared value and SLTO – terms that have been obstructive to debates about responsible governance in resource development. Here we review the origins of CSI and consider its place in debates about corporate responsibility.

One of the earliest discernible uses is W.H. Ferry's (1962)'Forms of Irresponsibility', published in the Annals of the American Academy of Political and Social Science. Ferry was concerned that American corporations were eroding American values of openness, freedom, opportunity, and choice. He identified a litany of irresponsibilities, including conflicts of interest, blacklisting, false advertising, planned obsolescence, false narratives, political interference, concentration of power, war mongering, and driving inequality. In doing so, Ferry cautioned political economists against equating a free market economy with a society where freedom and justice would flourish. The early usage depicts CSI as the antithesis of CSR, characterised by "unethical and morally distasteful behaviour" underpinned by "short views, self-righteousness, hypocrite, and disdain for the common good." Far from considering CSR achievable, Ferry's focus was avoiding the excesses of corporate irresponsibility:

> Perhaps is too much to ask of corporate life that it improve those exposed to it, that it make it better men of them so to speak. But it is not too much to ask that it not make worse men [sic] of them. (1962, p. 73)

In the era in which Ferry was writing, many business and management scholars were reluctant to criticise American corporations and their role in shaping the global economy. Ferry lamented:

> The universities could begin to fill this void if they would devote less time to servicing the business community [and the cold war] and more to trying to understand and explain our complex economic system.

He regretted the continued "slackness of intellectual nerve or curiosity". Instead of robust external critique, what transpired was a controlled corporate introspection, about which he was highly sceptical:

> As never before, the large firms are scrutinising themselves, and no one would wish to decry the growth of true inward gazing by corporations. But much that starts out as corporate introspection regrettably ends up as a game of "Mirror, mirror on the wall, who's the fairest firm of all?"

This type of open critique of the corporation did not catch on until 1977, with J.S. Armstrong's 'Social Irresponsibility in Management' in the *Journal of Business Research*. This work came at a time when corporate power was increasing exponentially, buoyed by an expanding international system of finance. Armstrong (1977) proceeded on the basis that CSI was constituted when "a vast majority of unbiased observers would agree that this was so". Centring on the effect that roles and duties have on management decisions, Armstrong found that where managers were duty bound to maximise shareholder value, irresponsible actions were more likely than when their duties extended to the interests of other stakeholders. Armstrong concluded that under a system where the managerial duty is to generate corporate profit above all else, corporate social irresponsibility was all but guaranteed.

The next major development in CSI was in 2006, when Vanessa M. Strike and colleagues, argued that CSI was a distinct concept, worthy of mobilisation in research independently from CSR. Analysing data from 222 publicly-traded US firms from 1993 to 2003, Strike et al. (2006) found that businesses can meet socially responsible markers in some activities while simultaneously being deemed socially irresponsible in others. Despite this development, CSI still struggled to gain intellectual traction in business and management research, and empirical studies remained sparse. Campbell (2007) and Greenwood (2007) suggested that this was because CSR overwhelmed CSI, with scholars continuing to favour CSR and its norm-setting, aspirational narrative.

Meanwhile, significant evidence amassed in the social and environmental sciences has exposed the excesses of corporate power. The realisation that CSR does not prevent and cannot offset irresponsible corporate activity resulted in renewed calls for evidence-based CSI studies, and research began to burgeon (Clark et al., 2022). In accounting for the recent activity in this nascent field, Iborra and Riera (2022) conducted a systematic literature review. They found that 66% of all CSI articles in their sample (n = 149) were published between 2015 and 2020. CSI is an increasingly attractive proposition given the limitations of strategic CSR. A conceptually distinct CSI discourse removes the need for researchers to disprove CSR rhetoric before engaging with responsibility problems. Researchers concerned about CSI in mining can, in effect, put their energies toward capturing the form and function of irresponsibility in locations where mining takes place.

As with CSR, CSI suffers from the single actor problem where the

corporation can easily become the exclusive focus of analysis. Sassen's (2014) work on the power of multi-national corporations and their complex knowledge systems is a sobering reminder of just how difficult it is to trace cause and effect across the vast systems that underpin the global economic system. Tracing the lines of irresponsibility for the displacements, evictions, and expulsions in late capitalism is enormously challenging for scholars, as it is for those who benefit from the system to feel responsible for its depravations.

5. Multi-actor responsibility and CSR

The strategic turn invoked by Porter and Kramer (2006, 2011) revitalised themes that were already present in CSR. The novelty in Porter and Kramer is the perceived moral good in corporations pursuing their own self-interest through the strategies and tactics of stakeholdership. This perceived moral good enters the social context in ways that mirror Smith's invisible hand (see Rothschild, 2002) and trickle-down economics (see Aghion and Bolton, 1997): the freedom to trade brings society's actors together to produce goods that makes "society as a whole" better off. SLTO (by aim), and indeed, CSI (by evidence) suggest that companies gather too easily around tactical stakeholdership for their own advantage and that immediate other-regarding concerns are left out of the final moral equation. CSR discourse, as we have argued throughout this paper, habitually corrals social institutions around the corporation in order to test or theorise questions about its role and obligations. We argue that this approach is not genuinely multi-actor because the underlying assumption is that the internal organisation, ownership and management of corporations holds greater causal significance over responsibility outcomes compared with other factors or institutions.

In this section we aim to present some preliminary ideas on social responsibility that are explicitly and more genuinely multi-actor. The conceptual basis for this departure is three-fold:

(i) while corporations are deliberately structured to privilege self-interest and to avoid the liabilities that emerge out their activities, incorporation occurs through a legal process that is managed by other social institutions. In other words, the corporation is a social rather than a natural construct;
(ii) responsibility outcomes necessarily require the participation of other social institutions;
(iii) that single actor, strategic self-interest models generate considerable social and economic costs due to inefficient processes involved in correcting irresponsible outcomes. Left on their own, single actor models compound negative outcomes until the externality becomes financially or morally unbearable.

For these three reasons, we consider the single actor, strategic self-interest CSR model to be definitionally deficient. In practice, other institutions exist to enable the formation of the corporation and to intervene when these entities cause harm to other parties. The business and human rights discourse recognises these features and promotes an approach, in parallel with a CSR, that emphasizes a multi-actor framework for arriving at responsibility outcomes.

Debates about the human rights responsibilities of businesses reached fever pitch in 2005 when the United Nations Secretary General appointed Professor John Ruggie as the Special Rapporteur for Business and Human Rights, culminating the 'Respect Protect Remedy' framework (Ruggie, 2008), and eventually the United Nation's Guiding Principles on Business and Human Rights (UNGPs) (United Nations, 2011). The work is often described as clarifying the parameters for businesses with regard to their human rights responsibilities, however, a salient feature of this architecture is that of the three pillars articulated by Ruggie, two point directly to state functions (the duty to protect against human rights abuses occurring, and the shared responsibility of access to effective remedy). The pillar that speaks more singularly to businesses is the "the corporate responsibility to respect human rights" by acting with due diligence to avoid infringing on the rights of others. In effect, all three pillars assume a multi-actor interface around human rights responsibilities. Arguably, for instance, the state should not permit the formation of corporate structures or the development of resource projects if there is a clear potential for human rights to be violated. Companies cannot, in isolation, develop the means by which to acquire a sufficient understanding of the rights held by others, nor an appreciation of how their activities might diminish their enjoyment or lead to abuse (Slack, 2012). Likewise, the prospect of remedying human rights harms caused by a corporation, that was initially enabled by the state, must be viewed through a multi-actor perspective to properly appreciate the contextual details and duties of the parties. Scholars, and most certainly corporations, could benefit significantly by widening their gaze when thinking about corporate responsibility outcomes, and one useful step in achieving this is to assume a more complex set of institutional arrangements than simply a state, a corporation, and a local community. This is especially important in developing country contexts (Hilson, 2012; Frederiksen, 2019).

Multi-actor arrangements are evident in several active legal cases involving mining corporations. The cases below highlight the convoluted processes that advocates struggle to work through in order to seek remedy. The first is a complaint brought by the Australian Human Rights Legal Centre on behalf of project affected landowners in Bougainville against mining company Rio Tinto and its Panguna mine. This complaint describes a long history of failed attempts by landowners to have their case against Rio Tinto heard in Papua New Guinea, as well as in the United States. At the time of writing, a more limited complaint was working its way through the Organisation for Economic Co-Operation and Development's (OECD) National Contact Point, in a non-judicial process, under the auspices of the Australian Government's Department of Treasury. This is a decades old, intricately complex complaint and the OECD's National Contact Point's powers are confined to facilitating and reporting on the outcome of a voluntary dialogue between the parties.

The relevance of these complex cases is that efforts to bring about responsible outcomes invariably involve a multitude of actors and processes over a staggeringly lengthy period of time. The catastrophic tailings failure at the Samarco iron ore mine in Brazil in 2015 is a case in point. Samarco is a joint venture incorporated in 1977 by two of the world's largest mining companies: Brazil's former state-owned Vale and English-Australian, BHP. Significant overlap in institutional ownership of these companies, sees Blackrock Inc., Capital Research & Mgmt Co., and Goldman Sachs hold major stakes. The failure at Samarco occurred when two tailings dams, containing billions of tonnes of liquid mine waste, collapsed with the flow killing 19 people, destroying 700 homes, and resulting in Brazil's worst ever environmental disaster. Operations were immediately suspended, and Brazil's state and federal governments launched legal proceedings. A group of BHP shareholders brought a separate action, claiming that the company breached their disclosure obligations and had deceived shareholders. In 2018, the parties agreed to defer legal action while Samarco, Vale, and BHP conducted remedial works and delivered disaster relief to downstream communities. That same year, more than 200,000 people, including businesses, churches, municipalities, utility companies and an Indigenous community, launched a class action against BHP in the English court system. BHP contested the action, arguing that loss and damages were being paid out locally, and that the action would be duplicative of those in Brazil's judicial system. UK courts originally upheld BHP's defense, kick-starting a series of claims, counter-claims and appeals. To protect itself, BHP filed a contribution claim against Vale to hold them liable for any amount payable should BHP's case in the UK fail. Meanwhile, in early 2019, a tailings dam at another Vale mine in Brazil liquified, killing more than 270 people and devastating the local environment. Three months later, the International Council on Mining and Metals (ICMM), investor groups, and the United Nations Environment Program (UNEP)

launched negotiations over a new global industry standard with the aim of preventing future disasters. Later that year, BHP reported that it has not reached agreement with Vale on the restructuring of Samarco's unsecured financial obligations associated with the disaster. In 2020, ICMM members committed to conform with the new global standard by 2023 for 'extreme' and 'very high' consequence facilities. In that same year, Samarco re-started operations at reduced production. In 2023, an English High Court judge agreed that the class action could indeed be heard in UK courts, setting a trial date for 2024. If the trial proceeds, the multi-billion-dollar damages suit would be the largest case ever heard in English Courts. Criminal proceedings have not led to a successful prosecution, despite multiple charges being laid.

Even a summary recounting of the Samarco case highlights the extent to which seeking 'responsibility outcomes' are exhausting, expensive, and highly inefficient in terms of mitigating known harms or harmful practices perpetrated by mining companies, enabled by a multitude of actors. While the Samarco timeline starts in 2015, antecedents include the design and construction, monitoring and oversight, management, and capital investment decisions, over decades. Viewed against the Panguna case above, the Samarco case likewise has a long history, and a future trajectory which all but guarantees that swift resolution for victims is improbable. The point here is that the full range of enabling and defaulting institutions is routinely overlooked within CSR (Banerjee, 2018) and, to a large extent, CSI discourse.

Judicial and non-judicial processes can function to restore responsibility norms on occasion, but the main observations in these instances are that:

(i) the corporation had resisted numerous prior attempts;
(ii) a multi-actor process was needed to adjudicate on the facts and duties of the corporation; and
(iii) a structural failure on the part of other actors to bring about a responsible outcome in the preceding stages.

6. Conclusion

CSR, however, it spins or turns in discourse will remain relevant to the interrogation of responsibility problems in the mining industry. The ultimate question for observers of the industry is how relevant? Adherents to the strategic or "stakeholdership" approach will likely find little analytic value in CSR, except to confirm that any premise of moral betterment would best be served by corporations pursuing their own self-interest. This may well be considered a misrepresentation of Porter and Kramer, or a slight on the idea of "stakeholder capitalism" (Samans and Nelson, 2022). However, without companies approaching their strategic CSR goals with the enlightened view that their competitive advantage comes from meeting social needs in their immediate context, the strategic approach defaults to one-dimensional tactics.

Social license is perhaps the worst possible depiction of this eventuality. Responsive CSR voluntarily driven by a corporation, navigating by celestial self-interest, may in many respects be a poor second cousin, but it nonetheless retains a focus on corporations being accountable and responsible for their actions. The managerial sciences, through picking at the agency problem, and more recently CSI, describe corporations as bound either legally or culturally to the strictures of self-interest. For CSI scholars, the turmoil wrecked on affected stakeholders is – on its own – sufficient to prompt a deep rethinking of how corporations are structured and regulated.

Our contribution in this paper comes from removing the notion that corporations are, or should be, the single or dominant actor when conceptualizing responsibility outcomes, including outcomes that stem from the inner workings of corporations. We argue that in practice multiple actors are present in forming, promoting, financing, permitting, regulating, contesting, adjudicating and consuming from the activities of corporations. There is no conceptual advantage in pretending that these actors constitute mere context for the corporation or that their effect, if motivated on responsibility outcomes, would be negligible.

Credit author statement

John R Owen: Conceptualization, Writing- Original draft, Writing-Reviewing and Editing. Deanna emp: Conceptualization, Writing-Original draft, Writing- Reviewing and Editing.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

No data was used for the research described in the article.

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