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Governance for Whom?

Capturing the Inclusiveness and Unintended Effects of Governance

Jana Hönke, with Esther Thomas

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Jana Hönke, with Esther Thomas

Abstract

Research on governance by external non-state actors in areas of limited statehood concentrates on the conditions under which these actors engage in governance. However, this literature largely ignores findings from research on the anthropology of development, the privatization of security, and non-state welfare provision in developing countries that point to the limitations and negative effects of governance by non-state actors. Hence there are many reasons to distinguish carefully between different qualities of governance contributions and the (unintended) effects of external actors' practices. This paper deals with the quality of governance in that it suggests an analytical framework for distinguishing different qualities along three dimensions: inclusiveness, the indirect effects of governance, and the external effects of non-governance practices. Empirically, the paper focuses on multinational companies in sub-Saharan Africa. This is for two reasons. Firstly, the literature on business and governance noticeably isolates the positive contributions by firms from the negative effects of business activities in areas of limited statehood. Secondly, the case of companies – actors that do not aim at contributing to governance in the first place – clearly illustrates the added value of distinguishing different qualities of governance contributions. This is also relevant, however, for other governance actors.

Zusammenfassung

Die Forschung zu Governance durch externe, nichtstaatliche Akteure in Räumen begrenzter Staatlichkeit konzentriert sich auf die Bedingungen, unter denen diese zur Bereitstellung kollektiver Güter beitragen. Dabei ignoriert sie bisher weitestgehend Ergebnisse der Entwicklungsanthropologie sowie der Literatur zu Sicherheitsprivatisierung und der nichtstaatlichen Bereitstellung von Sozialleistungen, die die Grenzen und negativen Effekte von nichtstaatlicher Governance aufzeigen. Es lohnt sich für die Governance-Forschung, diese Ergebnisse ernst zu nehmen und unterschiedliche Qualitäten von Governance genauer in Augenschein zu nehmen. Dieses Papier beschäftigt sich mit ebenjenen qualitativen Unterschieden von Governance und entwirft einen analytischen Rahmen, mit dessen Hilfe diese entlang von drei Dimensionen erfasst werden können: Inklusivität von Governance, indirekte Effekte von Governance und externe Effekte von Praktiken, die nicht auf Beiträge zu Governance abzielen. Empirisch bezieht es sich auf multinationale Unternehmen in Subsahara Afrika. Dies einerseits, weil sich in der Literatur zu Unternehmen und Governance eine isolierte Betrachtung positiver Beiträge besonders virulent zeigt, ohne zwischen unterschiedlichen Qualitäten von Governance zu unterscheiden. Andererseits zeigen sich am Fall von Unternehmen, deren primäre Motivation nicht auf die Bereitstellung von Kollektivgütern in Räumen begrenzter Staatlichkeit zielt, Probleme der Exklusivität und indirekter Effekte von Governance sowie negativer Externalitäten besonders eindrücklich. Eine Unterscheidung unterschiedlicher Qualitäten von Governance, die diese drei Aspekte berücksichtigt, ist aber auch für andere Governance-Akteure relevant.

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1. Introduction

In International Relations, research on private governance deals with companies as key actors.[1] Within much of this literature, as well as within political practice, companies are presented as resourceful and effective governance actors that are potentially able to close governance gaps in areas of limited statehood. Voluntary codes of conduct concerning companies' social and security responsibilities are meant to make them contribute to collective goods provision at local production sites in these areas.[2]

Paradoxically, the literature on governance points to a credible shadow of hierarchy as a necessary incentive for such "good governance" behavior by firms (see Börzel 2010). In many areas in Africa, however, the state is not capable of stepping in when companies renege on their voluntary commitments. Mandatory state control is absent. Furthermore, companies' home states have been reluctant to hold them accountable for what they do abroad. Literature on the political economy of state-business relations in Africa, Latin America, and the Middle East argues that there is – at least when it comes to oil and mining companies – in fact a *negative* relationship between them operating in a country and the quality and inclusiveness of domestic governance (Ross 1999; Moore 2004). Finally, literature on the anthropology of development (Ferguson 1990; Murray Li 2007), the privatization of security (Daase/Friesendorf 2010; Leander 2007; Kempa/Singh 2008), and the non-state welfare provision in developing countries (e.g. Cammett/MacLean 2011) points to the limitations and negative effects of governance by non-state actors. There are therefore many reasons to look carefully at the different quality of such commitments and at the (unintended) effects of companies' practices.

This paper deals with such differences in the quality of governance contributions by non-state actors. Governance is defined here as contributing to rules and institutions that are apt to improve the collective good (*Gemeinwohl*) or as providing collective goods. Going beyond the question of under what conditions do companies contribute to governance, this paper outlines an analytical framework for distinguishing different qualities of governance outcomes. Currently, the literature on business and governance does not distinguish between different degrees of inclusiveness in governance contributions. It also largely ignores how the attempt to "do good" may actually have serious negative side effects. Finally, it isolates the study of companies' contributions to the collective good from the whole range of companies' actions, including the negative effects or *externalities* of their private activities on collectivities. We argue that the

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2 The term "governance" in this paper follows the definition of the SFB 700: governance is the various institutionalized modes of social coordination that produce and implement collectively binding rules, or that provide collective goods (Framework proposal SFB 700 2009).

various different qualities of governance contributions need to be distinguished by looking at three specific dimensions: inclusiveness, the indirect effects of governance, and the external effects of core business practices. In order to offset the bias in the business and governance literature toward positive business contributions to governance, we focus on the negative indirect effects and externalities of business practices. A nuanced evaluation of companies' role in governance requires a (re)consideration of the "dark sides" of non-state actors' practices.

To illustrate our analytical categories, we draw on evidence from multinational mining companies in Tanzania, South Africa, Guinea, and the Democratic Republic of Congo (DRC), focusing on the nexus of security and development practices by firms. We discuss how different dimensions of the quality of governance and the negative externalities of business practices relate to each other in a single case study. This illustrates what the framework proposed in this paper helps to reveal that is so far overlooked in the governance literature (see also Börzel/Hönke 2011).

Why are these issues relevant for governance research more generally? The scope of non-state governance – whether in cooperation with the state or whether acting without the state – is often territorially and functionally limited. It occurs at a sub-national level and/or is limited to particular issue areas, such as labor rights, environmental issues, and security. When non-state actors claim authority over several functional areas, this remains mostly restricted to geographically limited sub-national spaces or narrowly defined identity groups. In all these cases, "governance for whom" is thus an open empirical question that is often highly contested. Relevant research questions in this regard are thus: Who is excluded from non-state governance attempts? What are the effects of governance for a functionally, socially, or territorially specific collectivity on other collectivities? What are the effects of the pluralization of governance actors on governance by government? The findings from our cases are relevant for the study of other for-profit actors in governance. However, they also provide comparable insight for research on the different qualities and effects of other actors and forms of non-state governance.

In the following, we first review the governance literature with regard to these questions and then conceptualize the inclusiveness of governance, the negative effects of governance, and the negative externalities of business practices. In order to illustrate these three concepts with empirical examples, we draw on security and development practices of mining companies in sub-Saharan Africa. Using the case of a Canadian gold-mining company in Guinea, we finally demonstrate how using these different categories makes us see governance outcomes differently: the proposed framework brings different collectivities that benefit or suffer from a company's governance activities to our attention. We conclude by summarizing our main arguments and by discussing the broader political consequences of the pluralization of governance.

2. Governance for (and against) whom? Gaps in the governance literature

The governance literature in International Relations has several blind spots. Firstly, it is narrowly focused on formalized governance arrangements. In a top-down manner, research focuses on policy commitments and institutional design at the global level (see also Börzel/Hönke 2011). The literature concentrates, secondly, on well-intentioned initiatives for collective goods provision (Kaul 2003; Haufler 2001; Wenger/Möckli 2003). It concentrates on the question of under which conditions business may contribute to collective goods provision. A number of blind spots result from these biases.

There is not much interest in distinguishing the different qualities of governance outcomes. Rather, the literature poses questions like under what conditions do single non-state actors choose to contribute to collective goods? Or how do a plurality of actors overcome collective action problems to produce public goods despite market failure (Cornes/Sandler 1989; Héritier 2002)? The debate thus discusses which incentives motivate companies to commit to governance. In this respect, much of the business and governance literature points to the importance of a credible shadow of hierarchy. This, however, leads to a paradox when these arguments travel from the context of new modes of governance in the "coordination state" to areas of limited statehood (Mayntz 2005). In many cases, the state is not capable of stepping in when companies renege on their voluntary commitments and mandatory state control is absent (Börzel 2010). However, companies commit to collective goods provision without a state shadow of hierarchy. Alternative explanatory factors range from local actor constellations and the properties of the goods to be produced, to an external shadow of hierarchy, market incentives, and normative and cultural factors (Börzel/Risse 2010; Börzel/Thauer forthcoming; Prakash/Potoski 2006).

Instead of focusing on the motivations and collective action problems of non-state actors engaging in governance, however, we are interested in the different outcomes of non-state governance. The (global) governance debate has addressed the problem of inclusiveness by distinguishing public goods provision from the provision of private goods (e.g., Kaul 2003). Public goods are defined as non-excludable and non-rival, whereas private goods are the opposite: excludable and rival in consumption. Common or club goods are in between, defined as non-rival in consumption but with a mechanism of exclusion in place (Cornes/Sandler 1989). From a global perspective, most governance – state and non-state – is governance for clubs; from this perspective, the citizens of nation states are simply a bigger club than the members of a local community (Heritier 2002).

Drawing on this classification of goods in economic theory, "public" and "private" refer to the technical characteristics of particular goods. However, these characteristics of a good (non-rival, non-excludable) are only naturally given for purely public goods. Most governance we look at in areas of limited statehood is very political. There are many contested issues for example who is being governed, who should benefit from a particular good provided by a non-state actor, and who could legitimately be excluded from accessing it? Further, who is defined as part of a governance collectivity? How many people are negatively affected by that same governance

attempt? And for negative externalities of business activity that are not addressed, whom does such non-governance negatively affect? Evaluating the quality of companies' governance contributions requires taking these different collectivities into account.

Regarding the different qualities of non-state governance outcomes, the literature on compliance and on governance effectiveness examines the level of implementation of governance attempts to some extent. However, the problem with this literature is for one that it limits itself to looking at outputs (e.g., programs, policies within companies, and new administrative structures). It examines neither the outcome of transnational governance initiatives nor their overall impact (Börzel/Hönke 2011). Following the policy cycle, studies look at the role of business in agenda-setting and decision-making, policy formulation, and output. Few go further and examine whether there are actual changes in behavior compliant with the policy and who actually receives or benefits from a particular contribution to governance (Raustiala/Slaughter 2002). There often is an important gap between policy commitment and actual outcomes of such policy. This issue needs more attention in research on non-state governance.

However, the gap in this literature goes beyond a lack of a systematic assessment of actual policy outcomes. The second issue not much addressed is if – and to what extent – governance attempts by business contribute to solving the broader problem that is claimed to be addressed (Miles et al. 2002). What do we know about the extent to which a governance contribution by a company is effectively contributing to solving the problem that a particular initiative was created to address in the first place? A high level of compliance with voluntary transnational governance and private codes of conduct does not say much about the degree of the *overall* problem-solving effectiveness of such programs (Beisheim et al. 2008; Raustiala/Slaughter 2002).

It can be argued, thirdly, that private governance actors may turn out to be more likely to pursue specialized, private interests and that they are not very accountable to those affected by their actions. This makes exclusive forms of governance more likely (Held/McGrew 2002: 14). Criminologists Singh and Kempa, for instance, show for South Africa that the rise of commercial security increased a fragmented and selective distribution of security. Effective governance for and within clubs is detached from broader social and economic peace (Kempa/Singh 2008). Overall, the governance literature tells us little about the unintended and negative effects of non-state actors' governance practices. In fact, it largely ignores the de facto side effects governance attempts have whether they are effective or in effective (Hönke forthcoming). As has been suggested in the case of environmental governance (Young 2004), the consequences on other governance arrangements in the same thematic area should be considered as well as the systemic effects on governance outcomes in other thematic areas.

Finally, the negative externalities of business practices need to be brought back into governance research, such as environmental degradation and the fuelling of conflict, corruption, and authoritarian governance by governments. A number of studies point to the collectivities negatively affected by non-governance or not-good-enough (too exclusive and superficial)

governance by companies (see e.g., Nest et al. 2006; Ballentine/Sherman 2003; Frynas 2001; Ross 1999; Reno 2001). Even where there is evidence for a company's contribution to collective goods provision in a particular issue area and locality, this needs to be assessed in light of the negative effects of governance and the negative externalities of the other business practices by the same company.

3. Different qualities and "unintended" effects of governance – toward an analytical framework

In order to move governance research forward – beyond looking at companies' commitments to governance and assessing the extent to which governance actors comply with the rules they committed themselves to – in this section we develop analytical categories to distinguish between different qualities of private governance outcomes. Our starting point is to consider the entire range of governance practices at the local level and contradictions and conflict between different governance attempts and collectivities. We conceptualize and distinguish between different dimensions of inclusiveness and unintended negative effects of governance attempts by companies, as well as of negative externalities of core business practices. This framework allows us to distinguish between different qualities of non-state governance and to build on these distinctions, specifying the preconditions for circumstances where companies – or other non-state actors – contribute to more or less desirable governance outcomes.

3.1 Inclusiveness of governance contributions

In a study about inclusive governance, the United Nations Development Program defines inclusiveness as a normative goal:

> "To be inclusive is a core value of democratic governance, in terms of equal participation, equal treatment and equal rights before the law. This implies that all people – including the poor, women, ethnic and religious minorities, indigenous peoples and other disadvantaged groups – have the right to participate meaningfully in governance processes and influence decisions that affect them. It also means that governance institutions and policies are accessible, accountable and responsive to disadvantaged groups, protecting their interests and providing diverse populations with equal opportunities for public services such as justice, health and education." (UNDP 2007: 1)

This definition lays out two important criteria for inclusive governance: inclusive participation in decision-making and the inclusiveness of governance outcomes. Research on governance by non-state actors has largely focused on the first criterion. This paper, in contrast, focuses on the second. It asks questions like how are governance problems defined (narrow/broadly) and,

as a result, whom does governance formally address? Who actually benefits from governance outcomes and who is excluded?

At the heart of the problem of governance inclusiveness is the notion of the collectivity. In state-centric analyses, the citizens enclosed by state boundaries constitute the collectivity that governance by governments ought to be directed at. However, in many cases of governance without government, there is no clear definition of what the relevant governance collectivity should be. This has become a core problem of political theory (see Ladwig et al. 2011). The approach here is to turn the problem into an empirical question and to propose an analytical framework that allows us to systematically integrate this problem into empirical research on non-state governance.

One option to approach this task would be to find abstract criteria for who is entitled to be part of a governance collectivity. However, who is entitled to benefit from non-state governance is not an easy question to define a priori and according to abstract criteria. The simplest criterion for inclusion would be membership. Individuals can be members of a particular organization or identity group. Membership gives rights vis-à-vis an organization, and entitlement to receive services from that organization. When researching governance by companies, the inclusiveness of governance contributions could be assessed on the basis of all citizens being entitled to benefit. This would be the case if we defined a governance collectivity as a group comprised of all rights-bearing citizens of the state in which a company engages in governance (Stichweh 2009). Yet, membership could be defined not in relation to the state but instead to the company. In this case, however, full inclusiveness of governance would already be attained if the employees of a company were addressed. Thus both definitions are not very useful empirically. In many places, citizen rights are neither recognized nor lived in practice. Non-state governors rarely engage in the governance of entire nations. Simultaneously, local communities negatively affected by non-state governance – or the absence thereof – are not members of, for instance, a company, which would allow them to make claims on that basis. Looking at governance by non-state actors in areas of limited statehood, the object of research largely falls in between the two collectivities defined through membership.

Instead of starting with an a priori definition of the nature of a governance contribution (a good) or with a particular group of people for whom collective goods should be provided (citizens, the members of an organization), we suggest starting from a particular governance actor (a company in our case). Two measures of how inclusive governance is stand out, namely the claimed and the actual scope of collective goods provision by an actor. Scope refers to both geographical and social reach: which geographical areas are addressed and where governance is actually implemented; and who governance addresses versus who actually receives or benefits from governance (see also Benecke et al. 2008).

From a governmentality and sociology of law perspective, we learn that social and geographical in/exclusion are not the same and should be analytically distinguished (Rose 1999; Valverde 2008; Opitz 2007). Castells and other proponents of the inequality literature merge these two

different dimensions of exclusion by using metaphors of ex-territoriality, such as “black holes,” “ghettos,” and the representation of Africa as the “excluded continent” (Castells 1996). While there are ghettos and gated communities, social and geographical exclusion do not always go hand in hand, however (Opitz 2007: 44). Through a company’s community practices, one can understand the relevance of distinguishing addressees from recipients of governance, and similarly distinguishing geographical from social scope in this regard.

Take, for instance, the multinational gold-mining company Semafo. Based in Guinea, Semafo claims in public presentations that they consider neighboring communities to be the addressees of their community-relations efforts. However, the community projects run by the company are not evenly distributed across the villages affected by its mining operations but are rather geographically concentrated in the villages of Kiniero and Balan. Kiniero and Balan are the closest villages to the company’s mining sites and to the company’s administration buildings; Kiniero is also the place where the company encounters the most protests and trouble. The social scope of Semafo’s community relations is also selective. Projects address specific social groups, in particular youth and elders. In 2009, the company’s social donations concerned elders of Kiniero in particular. They gave sheep and jewelry to the imam and two elders of Kiniero village. They funded a trip to Mecqua for the wise men of Kiniero in 2005. They also transported students to an exam center and built a youth center. The geographical and social scope in this case reveals two possible limitations of companies’ governance attempts: they might be geographically limited and within these limits they might benefit only certain groups of people. Therefore, inclusiveness needs to be measured alongside social and geographical criteria.

The sociological literature on inclusion and exclusion offers further ways to describe the inclusiveness of governance. In sociological debates about poverty and inequality in (post) industrialized, (post)welfare states in Europe and North America, exclusion is understood as exclusion from income opportunities (work, welfare). Such exclusion from economic exchange is seen as leading to exclusion from other social systems (Kronauer 2002). Poverty and exclusion are, however, more complex phenomena. The mechanisms that define people as “ignored” and as outsiders of “normal” society are much broader than merely economic criteria: excluded are also those who experience powerlessness, who are not part of a social system, and who suffer communicative isolation (Farzin 2006: 63). System-theoretical approaches emphasize the non-material aspects of exclusion, putting the idea of “chances to communicate” at the center of exclusion analysis (Farzin 2006: 64). Important to consider in a postcolonial context is, in addition, the concurrence of different social structuring principles: rational-bureaucratic logics and codes coexist with sustained organizational principles different from Western rational-bureaucratic modernity (“incomplete inclusion,” see Stichweh 2005). Inclusion in one social system or discursive field may thus entail not only exclusion from another. It also takes place within and between different functional systems in societies – local, national, global – as well as within and between transnational and local social systems (see also Farzin 2006: 85).

In addition to criteria for the scope of governance contributions, we suggest examining the qualitative experience of governance (e.g., Cammett/MacLean 2011: 9). One aspect of how governance contributions are perceived is how people evaluate the type and quality of goods they receive. Another is to examine whether the local population perceives the scope and distribution of governance by the company as fair and inclusive, or as unequal and exclusionary (Cammett/MacLean 2011: 9). On the first point, the case of a gold-mining company in Tanzania is illustrative. In the Shinyanga region, there is a clear example of the gap between a seemingly positive social policy outcome (compensation for displacement) and its questionable positive impact. Barrick Gold's Buzwagi mine had to resettle an entire village in order to dig a mining pit and constructed a whole new village, presenting it as a positive effort toward the local community and promising significantly upgraded replacement homes. However, it turns out these new houses were not appropriate to the way of life of the people who were going to live in them.[3] The families were polygamists, often composed of a man and at least four wives and six kids. Meanwhile, the new houses had only two rooms and a small amount of unfertile land, leaving no place for families' cattle. Asking about local perceptions gives an idea of whether governance contributions are adapted to the actual problems and needs of those addressed by programs, or if, for instance, corporate social investments are detached from local needs.

There is a second point about different perceptions of governance contributions, and thus a second measure for crosschecking the claims governance actors make themselves with local perceptions. Public debates about "corporate social responsibility" (CSR) in Tanzania and Guinea illustrate that often, competing views exist of what is considered as equal distribution of, for instance, the economic benefits of multinational gold-mining companies. In Guinea, companies' tax payments are directly deposited into a special account for public investments in the mining area where they have their operations. A local state agency is in charge of these particular localities and handles the management of the money through participative forums at the village, district, and regional levels. General opinion has it that all tax money should legitimately go back to the locality next to the mine. On the contrary, in Tanzania the general view is that all tax payments should be redistributed equally throughout the country. In this view, the mining company should have to deal with the specific problems of local communities that are related to the presence of the mines as a separate issue from their taxes. Socially situated actors in time- and place-specific contexts thus define very differently what is actually considered as the adequate group of addressees and what as equal distribution.

The figure below summarizes the different dimensions and indicators of the degrees and mechanisms of inclusion and exclusion of governance that can be drawn from the discussion of the literature above.

3 Interview with a consultant on natural resource management and controversial journalist, 2 April 2011, Dar es Salaam, Tanzania.

Figure 1

Inclusiveness of governance by companies			
The geographical scope of governance		**The social scope of governance**	
Designated area	Actual spatial reach	Addressees	Actual recipients
Qualitative experience of governance Perceived as inclusive and equal or as exclusive and unequal			

3.2 Unintended effects of governance

So far, we have discussed the different degrees of the inclusiveness of collective goods provision by companies. This has included questions of who is being addressed and/or actually benefits from corporate governance contributions, and who is excluded from these benefits. We will now go a step further and consider how such governance for a particular group of recipients may turn out to be governance *against* others. We ask a question rarely asked in the governance literature: How might "doing good" turn out to be "doing bad"? In other words, what are the negative effects of governance arrangements in practice?

We do this to evaluate the inclusiveness of governance not from within a governance initiative (whom does it address or reach), but from the external criterion of who else might be negatively affected by the initiative (for a summary, see figure 2, p. 16). Whereas the governance literature deals with the non-compliance of companies with voluntary standards, there is very little about the "unintended" negative consequences of governance (for an exception, see Daase/Friesendorf 2010).[4] Transnational and local private- and multi-stakeholder governance initiatives, as well as company activities under the label of CSR, have negative consequences themselves. That is, they affect local social goods provision and (in)security in ways that are not foreseen in these policies. They may be unintended by the individuals who negotiate and/or implement a particular policy, however, since we are not mind readers and thus do not know what their "true" intentions are, "unintended" simply refers to the intentions as expressed in a policy.[5]

A first unintended consequence of non-state governance is that their governance contributions often operate with a narrow definition of a problem and a narrow scope of recipients, as opposed to a broader framing of problems and potential solutions that could also be possible. Such narrow and superficial policy approaches might be the result of the "hijacking" of agendas by companies (for other interest groups see Clifford 2010). Companies may more or less openly lobby for setting a narrow agenda in order to avoid additional costs. Multilateral part-

4 Concentrating on negative effects and negative unintended consequences introduces a certain negative bias. This is intentionally so, since it addresses a gap in the business and governance literature. Positive unintended consequences are at the core of liberal economic theory: it is argued that the uncoordinated, individual search for a maximal profit in the market will create more welfare for all.

5 For a different approach, see Daase/Friesendorf (2010: 9).

nerships or local voluntary initiatives may only reflect the smallest common denominator (see also Daase/Friesendorf 2010). Instead of proposing a comprehensive and sustainable solution to a problem, such initiatives may settle upon the smallest common denominator, rendering the definition of a problem as well as the scope and depth of envisaged governance measures distorted and narrow. This is illustrated by what an interviewee in Tanzania stated about corporate governance contributions. According to him, corporate provision of welfare services is more about "who do you silence" than it is about developing inclusive governance at the local level.[6] Companies give something where they feel conflicts are rising. In addition, governance initiatives are often geographically and functionally very specific so that a comprehensive solution of complex problems is unlikely. For public-private partnerships (PPPs), it has been argued that "the narrow focus of PPPs on specific governance problems may be beneficial in terms of simple performance, but could provoke negative side-effects, and thus, could be dysfunctional in terms of complex performance" (Schäferhoff et al. 2009: 22).

Beyond agenda setting, a second group of unintended consequences of governance interventions are the effects external governance has on local politics. Conflict may arise, for instance, as a result of companies' well-intended development programs. In many cases, certain people and groups benefit from such programs and others do not. Some people may gain in power and autonomy from local elites through cooperation with the company whereas others might lose influence and authority. Contributions to local social service provision by gold-mining company AngloGold in Tanzania, for instance, was spent strategically on specific communities in which chiefs or politicians had close collaborative ties with that company (Lange 2006).

However, an important part of these unintended effects of governance arises during the implementation process: implementation can be incomplete due to a lack of resources or political will. Implementation might be poorly managed and insensitive to the local political and social context. This can be the case because companies contract out the provision of a particular security and development task to actors who do not have the appropriate training and/or equipment. Programs might also be appropriated and used differently from what was proscribed in the policy with problematic effects. Such misappropriation can result from the lack of political oversight and transparency of these programs (Schroeder 2010). For these or other reasons, there is ample evidence for how local power structures change strategies and influence the allocation of money and goods in a partial way (see for instance the literature on the anthropology of development, such as Mosse/Lewis 2005). Non-state governance thus often perpetuates, or even aggravates, social and political inequality. Sometimes it does more harm than good.

In the case of the Guinean village of Kiniero for instance, where the mining company Semafo operates, local politics are affected because of privileged relations the company has with state authorities at all levels. Semafo maintains close ties with local government officials and provides them with personal favors. It maintains the *sous-prefect's* vehicle, the *prefect* used to come to

6 Interview with a member of the Agency for Cooperation and Research Development (ACORD), April 8 2011, Mwanza, Tanzania.

Semafo's facilities every weekend for shelter and food plus "an envelope."[7] There were also regular visits from national ministries and the provincial governor for similar amenities. According to an NGO representative, these visits by officials did not translate in improved collective goods provision by the state to the local population. When villagers affected by Semafo's operations tried to address them with their problems, the authorities responded that they did not have the time. The smallest local government structure in the area, the local development committee at village level, complained about Semafo not consulting them when problems arise.[8] The company thus effectively uses the engagement with provincial and central state authorities to sideline local representatives of the population affected by mining and to delegitimate local critique and requests.

A third unintended consequence is that conflict may arise within and between communities over access to particular governance programs. A fundamental question in this regard is what kinds of communities get constructed. As neither nation state nor organizational boundaries define the people who should legitimately expect, and should have the right to request, services from the company, these boundaries are fluid and under constant negotiation. There is an important literature, mostly in political anthropology and the sociology of rule, which deals with the construction of identity groups related to the negotiation of access to resources in local arenas (Peluso 2009; Watts 2004). If we understand political topographies not as fixed but rather as outcomes of dynamic processes of constructing territorial and social spaces, the inclusiveness of governance should not only be assessed in terms of scope. How spaces and collectivities have been constructed becomes an equally relevant question (see Rose 1999 on the making of governable spaces and the creation of zones of exception). People become marginalized in local society because they oppose the company whereas other powerful actors do not.

Finally, and this is a more general point, non-state governance may reduce the ability of the state to provide for public goods.[9] Instead of complementing governance by the state, non-state governance may rather substitute for it. Substitution may undermine state capacities to deliver collective goods by the simple fact that it is no longer necessary (see also Wood 1997; Cammett/MacLean 2011). Another mechanism weakening state capacities to govern is that companies and international organizations compete with state administration over human capital at the local levels of implementation. Since these external actors are able to pay higher wages than the state, well-educated and effective staff are regularly recruited away from the public into the private or external development sector.

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7 Interview with the leader of an NGO from Kouroussa region who works on conflicts at the local level, February 28, 2011, Kouroussa, Guinea.

8 Interview with the CRD representatives February 27, 2011, Kiniero, Guinea. CRD stands for Commune Rural de Development (rural development commune), the smaller unit of state decentralization.

9 For discussion of this argument in the context of the transformation of European welfare states see e.g., Offe (2009).

Figure 2

<table>
<tr><th colspan="2">Unintended effects of governance</th></tr>
<tr><td colspan="2">“Hijacking” of agenda – imposition of narrow problem definition</td></tr>
<tr><td colspan="2">On local politics – Perpetuate local inequalities</td></tr>
<tr><td colspan="2">On local collective goods provision (security)</td></tr>
<tr><td>Increased insecurity for non-members of the “club”</td><td>Increased conflict between groups</td></tr>
<tr><td colspan="2">On governance by state</td></tr>
<tr><td>Crowding out</td><td>Indirect discharge</td></tr>
</table>

Contrary to arguments that interpret the increasing role of private actors in contemporary governance as a sign of the weakening power of central state authorities, however, the extended role of corporate entities in governance can also be understood as a new form of “indirect discharge.”[10] Here, governments quasi-outsource local governance to companies and use company governance to regain or strengthen control over regions and revenues from mining, thereby ensuring regime survival (Hönke 2010). Looking at cases such as the Democratic Republic of Congo, the indirect discharge argument holds that states strategically use the engagement of external non-state actors to retreat from certain state functions. Discharge can work in very indirect ways. Instead of direct delegation, indirect mechanisms make companies take up governance functions: the discourse of corporate responsibility and private authority, and the (sometimes strategic) absence of the state from providing collective goods. Through strategic absence, host states indirectly discharge the management of local grievances and conflict to companies, such as in the mining regions in Southern DRC or in the new gold-mining region in the northwest of Tanzania.

3.3 Negative externalities of core business practices

Let us turn from the inclusiveness and unintended effects of governance attempts by companies to the externalities of their core business practices. The quality of governance contributions by a company, we hold, also needs to be assessed in light of the effects of a company’s non-governance activities. Aid organizations are considered to intervene in areas of limited statehood primarily to provide collective goods. A mining company’s outright mission is, however, to extract non-renewable resources from a territory in order to make a profit. Companies often do not even claim that their purpose was to directly contribute to the public good. In

10 Max Weber originally used this concept to describe a technique of rule used in empires and feudal states that works through the delegation of coercive and extractive authority from central rulers to local power holders (1980: 580-623). In reaction to the privatization policies implemented since the 1980s, discharge has reemerged as a means of consolidating the power of the central state through delegating state functions to non-state business actors while indirectly keeping control over the private sector (Hibou 1999).

many cases, critics hold these operations are not compatible with such a goal. While the business and governance literature has found positive examples for collective goods provision by companies (Haufler 2001; Börzel/Thauer forthcoming), the problem remains that such studies tend to isolate contributions to "good" governance from the negative externalities of companies' business activities in areas of limited statehood (Hönke forthcoming; Börzel/Hönke 2011). Therefore, contributions to governance by companies in one area – often not directly related to the core business of the company – need to be considered in light of negative external effects of other company practices often related to their core business.

Economists define negative externalities as the spillover of the costs of an economic activity on unrelated third parties. Concerning mining companies, typical examples for such negative externalities are the various forms of serious environmental pollution deriving from the production process, such as polluted water, water scarcity, the loss of agricultural land or dust. In the case of security, asset protection aiming at providing security for the company as a private good has negative effects upon collective security in an area. Why are the negative effects of these practices relevant for assessing the quality of governance? We draw here on two normative criteria suggested by Ladwig et al. (2011) to determine to whom companies may have moral duties. These authors argue that companies have a responsibility for all those negatively affected by their operations and to all those subjected to their power.

The point here is that in order to protect the private property of the mine, for instance, companies draw on practices that not only exclude the public, but that also negatively affect security as a public good. Chasing peasants off their land or bribing local authorities may increase the private security of the company but it decreases the security of others. The increased number of security agents in the service of multinational mining companies in Tanzania and the Democratic Republic of Congo, for instance, has led to an increase in violent encounters between local populations and security forces (see paragraph below). Furthermore, no provision or the insufficient provision of rules to reduce negative externalities on those communities affected by corporate practices (re)produces public ill. The same can be said of the fact that there is no inclusive provision or there is insufficiently inclusive provision of collective goods to these communities. No governance is actually against people in the case of negative externalities of companies' private activities.

The dimension of externalities thus introduces a third layer against which to evaluate the inclusiveness (and quality) of governance by companies. Concerning mining companies, typical examples for such negative externalities are various forms of environmental pollution. Negative externalities in the social domain are increased migration, various social problems such as prostitution, and an increase in HIV/AIDS infections. Companies, by their simple presence, physically change the area in which they operate and have direct consequences on local people's everyday lives. As an example, since Semafo arrived in the village of Kiniero, the area has been strongly affected by red dust coming from the mining activities. It spreads everywhere in the surrounding villages, covering houses and roads, cattle, people's hair, and clothes. It causes breathing problems and sickness, especially for children and the elderly. In the same area, a

road was cut to force villagers to pass in front of the military camp and be checked as they leave the mining zone. Do the core activities of mining companies affect the surrounding areas more broadly than their governance responses do?

In the domain of local security governance, the protection of companies' assets – that is, the provision of security as a private good – has serious negative effects on local collective security. In the DRC, for instance, Anglogold Ashanti in Eastern Congo and Anvil Mining in the Copperbelt in Southern Congo deploy large numbers of private and state security agents. Roads and fields are rendered inaccessible because of patrols and road blockages. More security personnel in these areas has led to an increase in violent encounters between local residents and security forces (NIZA/IPIS 2006; Kobler 2011). In addition, local people and a large migrant population have lived from artisanal mining in both areas since the breakdown of the formal mining industry with the beginning of the Congolese wars in 1996–1997. They are now chased off from concessions, without being given alternative means of generating income (Hönke 2010).

Another example comes from Tanzania, where the presence and security strategy of the multinational mining company Barrick Gold increased insecurity in North Mara region. Violent encounters in 2009 had increased and were analyzed as being linked to the sharp rise of gold prices (almost threefold in the past five years). The company asked the government to establish a special federal police force in the region. According to informants, the establishment of this special police was meant to secure the company and its relationship with the state, not to secure the people. Indeed, it seems that consequently the special police force only gets very selectively involved in security provision, as it usually operates exclusively for and gets its directives from Barrick Gold. There are frequent reports of violent incidents that involve security actors associated with the company.[11]

Other such negative externalities are that certain people and groups benefit more than others from jobs, contracts, investment in their jurisdiction, or bribes. Some people may be particularly negatively affected by land loss, loss of income, or the excesses of mine security guards. Companies often collaborate with, and thereby strengthen, one faction that then strengthens that faction's power over others. Politicians, in turn, use the capital earned through close collaboration with the company against others (see case study by von Hellerman 2010). Anthropologist Marianna Welker (2009) gives an excellent example for the stability- and status-quo-oriented nature of corporate governance engagement at the local level. In the case of the US-based company Freeport McMoRan, one of the world's largest producers of industrial metals, she traces how the company turned toward adopting CSR norms and introducing extensive community-engagement policies after having been heavily criticized for human rights abuses in the 1990s (Abrash 2002). Welker shows how, despite a number of changes in the company's

11 Interview with a member of an NGO from Musoma (in the North Mara region) working on Tanzanian mining areas, April 7, 2011, Mwanza, Tanzania. The Wall Street Journal reports security personnel shooting intruders, protests, clashes with protesters, villagers invading and stopping the mine for thirty-seven hours on January 31, 2011; after deployment of twenty-five paramilitary police guards, confrontations with locals increased and there have been a number of shootings; Wall Street Journal, December 3, 2009 [last accessed 17.02.2010].

community policies at operations in Indonesia, Freeport sides with the traditional, conservative forces in order to fend off critique and demands by progressive, environmental groups at the local level. In a different form, we found such exclusive, client-oriented strategies (those that foster benefits for a club against the broader collectivity) in the Geita District in Tanzania. Members of parliament in Geita are co-opted by the company, and some leaders are provided with fuel for free and other material gifts.[12] Furthermore, in the North Mara region of Tanzania, local representatives up to the district level have allegedly been put in place with the help of Barrick Gold. The company seems to have funded their political campaigns in order to place pro-Barrick representatives in public positions in order to facilitate the companies' access to prospecting and acquiring land.[13]

These cases show that we need to take the political economy in which governance contributions by companies take place into account. How do multinational companies, and transnational governance interventions more generally, affect accumulation structures and power at the local level (Peluso 2009)? The single most important issue in this regard is the question of land. Territory in most parts of Africa is controlled "both for its economic value and as a source of leverage over other people" (Berry 2009: 24). Giving contracts over large concessions to mining companies – as fostered by external economic reforms since the 1980s – has increased local competition over land. In Tanzania, as well as in Guinea, for instance, custom considers land as the property of the first occupier, while national regulation considers it to be the property of the state that can be given to foreign companies. This creates the core conflict between local customary occupiers, artisanal miners, and licensed mining companies. Where there is a tradition of local artisanal mining, it has aggravated conflict over access to mineral resources. Changes in the accessibility of and rights to land through foreign direct investment have deep political implications where land is not simply an economic resource but also defines group membership and social and political hierarchies. The question of access to the land and its resources thus engenders fundamental conflicts in mining zones.

Finally, multinational companies have a particularly negative effect on governance by government in many states: they indirectly strengthen and reproduce unaccountable governments and cement political and social inequality in host societies. The rentier literature directs attention to such indirect effects of transnational mining companies on governance (e.g., Ross 1999). Governments in many cases still serve as the main gatekeeper between the domestic and the international spheres (Reno 2001; Bayart 2000). In spite of states' overall weak capacities, governments maintain the monopoly over symbolic capital and the legal authority to decide over mining rights. Figure 3 summarizes the dimensions and indicators for negative effects of non-state governance practices that can be derived from the above review of literature.

12 Interview with a member of ACORD (Agency for Cooperation and Research Development), April 8, 2011, Mwanza, Tanzania.

13 Interview with a member of an NGO from Musoma (in North Mara region) working on mining areas, April 7, 2011, Mwanza, Tanzania.

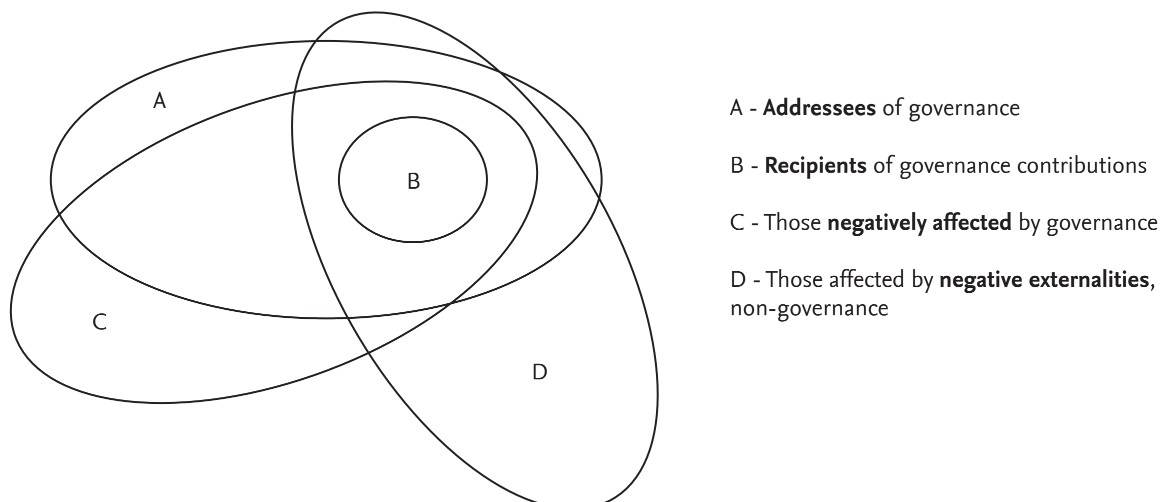
Figure 3

Negative externalities of core business practices	
On perceived and actual (in)security	
Direct: Increased violent encounters with security forces	*Indirect*: Increase in crime and "social disorder" due to in-migration, social change
On local and central state politics	
Direct: Strengthen incumbents/some authorities over others, decrease accountability	*Indirect*: Increased competition and conflict within communities

4. The quality of governance in light of different collectivities

The analytical categories introduced above for distinguishing between different qualities of local governance contributions by companies point to different collectivities – those affected by core business practices, those subjected to the power of companies, those who ought to be addressed by governance, and those who are actually addressed and that receive business contributions to collective goods. Our general point here is that there are different groups of people benefiting from and being negatively affected by business and business' governance attempts in an area. Comparing these different collectivities allows for the evaluation of the quality of governance contributions by companies. Such differentiation is necessary as there are huge differences between those defined by the company as addressees and those who actually benefit from a governance initiative. The difference becomes even more striking when one brings the collectivity of those negatively affected by governance or by the private activities of the same actor – as compared to the reach of intentional governance initiatives – into the picture (see figure 4).

Figure 4: Different collectivities of (non-)governance



Who are these different groups of people? How large or small are they compared to each other, and what does this tell us about the quality of company governance? The case of gold-mining company Semafo in Guinea will serve again as an illustration (see summary in figure 5).[14]

In official reports on their CSR practices, the addressees of Semafo's social programs and practices are very broad: they concern people from communities where they operate (Semafo 2008: 1). In practice, as we mentioned earlier, they address specific localities, namely Kiniero and Balan, which are both troublesome areas situated close to mining pits. However, within these villages, the actual recipients of Semafo's support are specific groups of people strategically chosen: namely youth and the elders of the village.

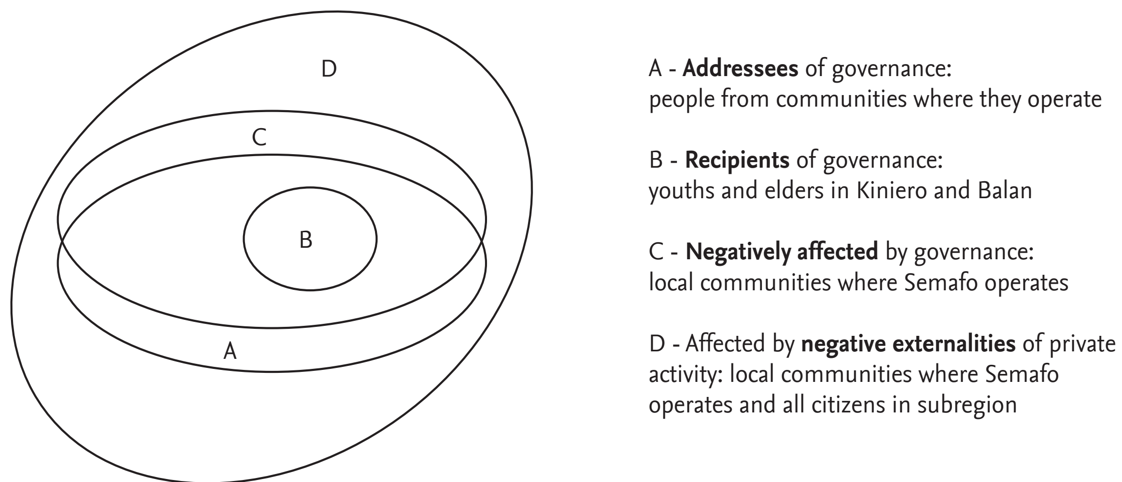
Who are the communities affected by Semafo's CSR strategy, which falls under our definition of governance as an intentional attempt to provide collective goods? When looking at the negative effects of CSR in Semafo's practices, we observed an unequal distribution of benefits. Money for community relations was used for maintenance of the *sous-prefect's* car or inviting the *prefect* to the company facilities. In certain contexts, these practices "work" in that companies have local authorities on their side to calm down local tensions, as described above in the case of Barrick Gold in Tanzania. In the village of Kiniero in Guinea, the use of philanthropy as a cooptation strategy has had different consequences on local politics. It actually delegitimized those elders and village heads who accepted such donations. According to an interviewee, they were no longer seen as being impartial in their judgments because they accepted gifts from the company.[15] They were thus no longer perceived by the youth of the village and by others as credible authorities in matters concerning community-company relations. This has led to changes in power relations in the local community, giving authority to the youth to mobilize against the company.

In terms of negative externalities of business practices, buying off of central authorities, inviting them to stay in company facilities, giving them envelopes with cash, and taking care of fuel and fees contributes to unaccountable local governance structures. These authorities do not take the opportunity to meet their people in the surrounding villages. Externalities of these core business practices result in the downsizing of the central authorities' accountability at the local level. This externality draws in yet another, even broader, subjected community comprising all citizens at the local level. The environmental impact of gold mining in the area points to a similarly large group: everyone affected by dust and land degradation.

14 We will draw on preliminary findings from a pilot case study on Canadian gold-mining company Semafo in Upper Guinea conducted in the context of the SFB 700 research project "D2 Business and Governance in Sub-Saharan Africa."

15 Interviews with NGO members, journalists, and local people in Kouroussa and Siguiri District, February 2011, Guinea.

Figure 5: Different collectivities of (non-)governance at Semafo Mining, Guinea



5. Conclusion

This paper has set out to broaden the research agenda on business and governance. Two opposing views on business contributions to governance usually stand out in the literature. The business and governance literature, and especially that on CSR, is mainly in the camp of those Avant et al. (2010: 358) refer to as looking for "virtuous cycles" of better collective goods provision and regulation for the public good. These authors take inspiration from John Ruggie (1998) and others who argue that the participation of non-state actors in governance may increase the overall provision of collective goods. Others, however, have argued that instead "vicious cycles" toward overlapping and competing rules and non-governance, degrading accountability, and fragmentation and exclusiveness of governance will prevail empirically (e.g., Cerny 1998). Non-state actors may thus eventually reduce overall collective goods provision because of the limited scope of their mandates and activities, and because of their negative effects on governance by states. Empirically, there is huge variation in what we find, and in fact evidence is available that sustains both tendencies. Not all governors make broad claims about contributing to the collective good. Some may do so but actually benefit only a small group. Others openly work for the interests of a small group. Looking at different company sites in different developing countries, great differences in corporate governance practices, in the inclusiveness of corporate governance outcomes, and in the degree of negative effects of corporate core business practices can be observed. We have illustrated some of these observations in this paper.

Based on the observations above, we have therefore argued that the interesting question is not (or at least is no longer) whether companies do good *or* bad, contribute to governance or not. The paper emphasizes that we should also ask to what extent and for whom (see also Avant et al. 2010: 365–66, who end on a similar note). From a focus on companies' commitment to transnational governance initiatives, and their compliance with these initiatives, governance research

needs to systematically distinguish between different qualities of governance contributions by companies in terms of actual local outcomes and effects. The paper has proposed steps for how this could be done. Looking at the different scope of governance allows one to distinguish between who is addressed, who actually benefits, and who is left out (inclusiveness). Bringing the unintended effects of governance into view points to who loses out or is hurt by governance. Finally, we have added an analytical focus on who is hurt by core business practices, and thus the non-governance of negative externalities of company practices. These categories provide the basis for systematically describing different qualities of governance contributions by business. Further research in the SFB 700 research project D2 applies this framework systematically to companies in different areas of limited statehood in sub-Saharan Africa in order to describe and explain different governance configurations and outcomes.

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