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**The institutional forces that impact on the understanding of
Corporate Social Responsibility (CSR) in the form of social
partnerships in the Peruvian Mining industry
Espinoza Ramos, G.**

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**The institutional forces that impact on the understanding
of Corporate Social Responsibility (CSR) in the form of
social partnerships in the Peruvian Mining industry**

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**A thesis submitted in partial fulfilment of the
requirements of the University of Westminster
for the degree of Doctor of Philosophy**

26 April 2021

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Abstract

The purpose of this research is to examine the regulative, normative and cultural-cognitive elements under the New Institutional theory that have an impact on the understanding of Corporate Social Responsibility (CSR) and the development of social partnerships between peasant communities, mining companies and government in Peru. The literature review shows that New institutionalism theory is a suitable theoretical framework as it analyses these three elements of institutionalism that shape the logic of behaviour of Peruvian native and non-native people towards CSR, including: regulative, represented by law; normative, seen in value dimensions; and cultural-cognitive, seen in the symbols that represent reality.

This research contributes to the wider CSR literature in developing countries from the Andean region by capturing the native peoples' voices. To this end, multiple qualitative methods including observations and semi-structured interviews have been utilised as they allow for a more in-depth, exploratory study. In total, 53 semi-structured interviews were carried out between August 2016 and September 2017 in Ancash and Lima regions. Moreover, indigenous methodology has been deployed to identify the ontological and epistemological stances of native people that involved participating in their traditions and seeking understanding of their oral stories.

The findings from this study regarding the regulative elements, indicate that, whilst in Peru there is no specific law that promotes social partnerships, the government has developed an ecosystem of law that promotes social partnerships. The Work for Taxes law is appointed as the most important legal tool that fosters early development of partnerships. Similarly, the Prior Consultation law permits a space for dialogue between comuneros and mining companies as a starting point of a partnership. However, there is the perception that it does not protect comuneros' rights from Andean regions, but rather, only indigenous people from the Amazon. For this reason, comuneros have often resorted to protest, which they see as a legitimate way to change the law to protect their rights.

The findings regarding the normative elements of institutionalism suggest that egalitarianism is the most important value dimension for the development of partnerships as it offers the opportunity for collaboration between the parties and promotes the comuneros' common welfare. Moreover, mining companies need to increase their efforts to develop trust by developing CSR initiatives that will benefit peasant communities. Meanwhile, comuneros demonstrate two levels of ambition to access CSR initiatives, a community-wide ambition, on which they are seeking for the best outcome for their own community; and group ambition, on which comuneros pursue economic group goals.

Finally, in respect of the cultural-cognitive elements, this study found that comuneros demand CSR to have both components: compulsory CSR on which its initiatives attend their urgent needs; and voluntary CSR aimed at developing their long-term capabilities. Moreover, partnerships have been changing from bilateral agreements between comuneros and mining companies, towards tripartite ones that include the participation of the government, which can provide the technical support in the development of CSR initiatives; meanwhile, third parties only occupy the role as an advisor in the execution of CSR initiatives.

Table of content

Abstract.....	i
Table of content.....	iii
List of tables.....	ix
List of figures.....	x
Acknowledgements.....	xi
Author's declaration.....	xiii
List of abbreviations.....	xiv
Chapter One - Introduction.....	1
1.1. Introduction to the research topic.....	1
1.2. Justification for the Study.....	6
1.3. Motivation.....	8
1.4. Research objectives.....	10
1.5. Research questions.....	11
1.6. Methodological approach.....	12
1.7. Structure of the Research.....	15
Chapter Two - Peru: background and context.....	17
2.1. Peru's background information.....	17
2.1.1. Geography.....	17
2.1.2. Population.....	18
2.1.3. Language.....	18
2.1.4. Political and economic structures.....	19
2.1.5. Andean peasant communities.....	21
2.2. Mining industry in Peru and Ancash.....	23
2.2.1. Classification of mining in Peru.....	24
2.2.2. Mining investment.....	24
2.2.3. Production.....	25
2.2.4. The impact of mining.....	28
2.3. Ecosystem of law in CSR and social partnerships.....	32
2.3.1. Mining Law.....	33

2.3.2. General Environmental Law	35
2.3.3. Prior consultation Law	36
2.3.4. General law of peasant communities No. 24656	40
2.3.5. 'Work for Taxes' Law	41
2.3.6. Public Private Associations.....	45
Chapter Three - Theoretical background and literature review.....	47
3.1. Definition of Corporate Social Responsibility (CSR)	47
3.2. Compulsory or voluntary CSR.....	48
3.3. The business case	49
3.4. The contextual definition of CSR.....	51
3.4.1. Effects of business size.....	52
3.4.2. Higher scrutiny from society	52
3.4.3. CSR as Corporate Governance (CG)	54
3.4.4. CSR and culture	55
3.4.4.1. CSR in developing countries.....	56
3.5. Partnership as a strategy for CSR	57
3.6. CSR theories.....	60
3.6.1. Theory of the Firm.....	60
3.6.2. Agency Theory.....	63
3.6.3. Legitimacy Theory.....	64
3.6.4. Stakeholder Theory.....	67
3.6.5. Institutional Theory.....	73
3.6.5.1. Economic institutionalism	75
3.6.5.2. Sociological institutionalism.....	76
3.6.5.3. Institutionalisation	77
3.6.5.4. Institutional logic.....	78
3.6.5.5. Isomorphisim	80
3.6.5.6. Pillars of the institutional order.....	80
Chapter Four - Research design and methodology.....	88
4.1. Setting the scene.....	88
4.2. Research philosophical paradigms.....	92
4.1.1. Ontological assumptions.....	93

4.1.2. Epistemological assumptions	94
4.1.3. Research Philosophy.....	95
4.3. Research Approach	97
4.4. The research choice.....	97
4.4.1. Multiple Methods	97
4.4.1.1. Qualitative method.....	98
4.4.1.2. Indigenous methodology.....	99
4.4.1.3. Quantitative data	103
4.5. The research strategy.....	104
4.5.1. Case study	104
4.5.1.1. Case study 1 – Minera Paron S.A.C.....	105
4.5.1.2. Case study 2 – Minera Antamina	107
4.5.1.3. Case study 3 – Santa Luisa	108
4.6. Data Analysis	109
4.7. Data collection methods	110
4.7.1. Primary data collection methods.....	110
4.7.1.1. Observation.....	110
4.7.1.2. Interviews	111
4.7.2. Secondary data collection.....	120
4.8. Evaluation of research quality	120
4.8.1. Rigour.....	121
4.8.2. Reflexivity	122
4.9. Ethical considerations.....	123
4.9.1. Consent Form / Information Sheet	123
4.9.2. Anonymity.....	124
4.9.3. Misquotation or misinterpretation.....	125
4.9.4. Appreciating cultural differences when approaching native people	125
4.9.5. Conflicts of interest.....	128
4.9.6. Data Storage.....	129
Chapter Five - Analysis of Regulative Elements	131
5.1. Setting the scene	131
5.2. Prior Consultation	132

5.2.1. Historical neglect of peasant communities' rights	132
5.2.2. Definition of peasant community and indigenous people	133
5.2.3. Implementation and clarification of the Prior Consultation law	135
5.3. Works for Taxes Law	138
5.4. The Environmental Regulation	142
5.4.1. Compliance with Peruvian environmental regulation.....	142
5.4.2. Application of international environmental standards.....	143
5.5. Peasant Community Law	145
5.6. Customary law	147
5.7. General perception of the law and company policies that promote social partnerships.....	149
5.8. Addressing Sub-Research Question One - Discussion.....	153
Chapter Six - Analysis of Normative Elements.....	158
6.1. Setting the scene	158
6.2. Egalitarianism.....	161
6.2.1. Trust	161
6.2.1.1. Dispositional Trust	161
6.2.1.2. Rational Trust	164
6.2.1.3. Affinitive trust	166
6.2.1.4. Procedural trust.....	170
6.2.2. Equality	171
6.2.3. Social justice	173
6.3. Mastery.....	174
6.3.1. Ambitiousness	175
6.3.1.1. Community-wide ambition	176
6.3.1.2. Group ambition.....	176
6.3.2. Choosing own goals.....	177
6.4. Hierarchy.....	178
6.4.1. Humbleness	179
6.4.2. Social power.....	180
6.4.2.1. Economic power depends on company size	180
6.4.2.2. Social power develops a dependent relationship	181
6.5. Harmony.....	182

6.5.1. Unity with Nature	182
6.5.1.1. Change in comuneros' connection to nature	183
6.5.1.2. Environmental impact used as a negotiation tool	183
6.6. Embeddedness	184
6.6.1. Respect for tradition.....	185
6.6.1.1. Respect for culture when developing partnerships.....	185
6.6.1.2. Mining companies' respect for comuneros' traditions	186
6.7. Addressing Sub-Research Question Two - Discussion.....	187
Chapter Seven - Analysis of Cultural-Cognitive Elements	192
7.1. Setting the scene.....	192
7.2. Stakeholders	193
7.2.1. Mining company	194
7.2.1.1. Mining company developing CSR initiatives to foster trust	194
7.2.1.2. Mining company as a replacement of the government	195
7.2.2. Government	197
7.2.2.1. Government's disinterest in peasant communities' issues.....	197
7.2.2.2. Governmental protection of mining companies.....	198
7.2.3. Comuneros.....	198
7.2.3.1. Improvement in comuneros' negotiation skills.....	199
7.2.3.2. Comuneros' rights to access to modernity.....	200
7.2.4. Third parties	200
7.2.4.1. Dual role of third-parties.....	200
7.2.4.2. Impact of CSR initiatives developed by third parties	202
7.2.5. Actors in partnership.....	203
7.2.5.1. Bilateral and tripartite models of partnerships	203
7.3. Rituals	206
7.3.1. Communal work.....	206
7.3.1.1. Communal work opportunities	206
7.3.2. Education as a source of development.....	208
7.3.2.1. Educational programmes in CSR initiatives.....	208
7.3.3. Protest and social justice	210
7.3.4. Participation in comuneros' festivities	212
7.3.4.1. Participation in traditional celebrations through donations	212

7.3.4.2. Active participation in traditional celebrations	213
7.3.5. Rumour	213
7.4. Artefacts	215
7.4.1. Economic compensation	215
7.4.2. Quechua	217
7.4.3. Gifts	218
7.4.4. Infrastructure projects	220
7.4.5. CSR	221
7.5. Answering Research Question Three - discussion	224
Chapter Eight - Summary and Conclusion	228
8.1. Introduction	228
8.2. Theoretical framework	229
8.3. Research design	231
8.4. Answering the Research question	232
8.4.1. The impact of regulative elements of institutionalism	233
8.4.2. The impact of normative elements of institutionalism	235
8.4.3. The impact of cultural - cognitive elements of institutionalism	238
8.4.4. Institutional clashes between three elements	241
8.5. Contribution to Knowledge	245
8.6. Limitations	246
8.7. Areas for further research	248
8.8. Final reflections	249
APPENDIX 4.1: Minera Paron – Easement agreement 2000	251
APPENDIX 4.2: Minera Santa Luisa – Framework Agreement 2007	253
APPENDIX 4.3: Template Analysis	261
APPENDIX 4.4: Participant Information sheet	264
APPENDIX 4.5: Consent form	268
List of references	270

List of tables

Table 2.1: Open cases of corruption committed by public officials	21
Table 2.2: Classification of mining according to size	24
Table 2.3: Peru's position in the world ranking of mining production (2019) and Latin America.....	26
Table 2.4: Mining employment according to the origin of the worker (2018).....	31
Table 2.5: Native / Indigenous communities by natural region (2020).....	37
Table 2.6: Distribution of type of settlement by region (2020).....	39
Table 2.7: Work for taxes - Total investment (\$US millions) from 2009 to 2019.....	44
Table 3.1: Pillars of Institutional order: adapted from Scott ; Ramsey, Leonel, Gomes, and Monteiro , and Palthe	81
Table 4.1: Groups of interviewees	114
Table 4.2: Category of communities from which interviewees were drawn	116
Table 4.3: Categories of communities from which the interviewees were drawn	118
Table 4.4: File name of transcriptions.....	124
Table 5.1: Regulative elements of institutional order: adapted from Scott; Ramsey, Leonel, Gomes, and Monteiro; and Palthe	132
Table 5.2: Summary of Regulative Elements of Institutionalism in the Development of Partnerships.....	156
Table 6.1: Normative elements of institutional order adapted from Scott; Ramsey, Leonel, Gomes, and Monteiro, and Palthe.....	160
Table 6.2: Summary of the normative elements of institutionalism in the development of partnerships.....	190
Table 7.1: Cultural-Cognitive elements of institutional order adapted from Scott; Ramsey, Leonel, Gomes, and Monteiro; and Palthee	193
Table 7.2: Summary of cultural-cognitive elements of institutionalism in the development of partnerships	226

List of figures

Figure 1.1: Economic contribution of mining against socio-environmental conflicts in Peru: 2007 to 2019	2
Figure 2.1: Law 29230 – Total Investment (\$US million) from 2009 - 2015	25
Figure 2.2: Major Mines Map 2017	27
Figure 2.3: Economic contribution of mining vs Poverty Index in Ancash (2007 – 2017)...	29
Figure 2.4: Direct employment of mining by type of employer (2007 – 2017).....	30
Figure 2.5: Ancash - Economic contribution of mining vs registered social conflict (2007 – 2017)	32
Figure 2.6: Work for Taxes – Total Investment vs Total for Ancash (\$US million) from 2009 - 2019	43
Figure 3.1: Theoretical Framework.....	86
Figure 4.1: Research Onion	91
Figure 8.1: Extended application of theoretical framework.....	244

Acknowledgements

The completion of this thesis would not have been possible without the invaluable support of the following people and organisations.

I would like to express my sincere gratitude to my supervisory team for their constructive feedback and patience, to my Director of Studies, Dr Aurora Voiculescu, for her guidance and encouragement during these years, especially during the transition from the Business to Law Schools. My gratitude also goes to my second supervisor, Professor Radha D'Souza, for her guidance and for challenging my colonial mindset when formulating the research design for this study.

My gratitude and appreciation also go to the Westminster Law School for funding the flights to Peru to carry out the fieldwork and my participation in some doctoral conferences. I am grateful to the Westminster Business School for funding some workshops and giving me the opportunity to discover that teaching is one of my passions.

My appreciation also goes to all the individuals and organisations in Lima and Ancash regions, who participated in the research. Their time given sharing honest opinions regarding mining and social partnerships in Peru enabled me to gather important information and documents for this research. Special thanks go to the members from the peasant communities, Tres de Octubre – Zanja and Huallanca; the third-parties, Caritas and the Ecumenical Centre for Promotion and Social Action North (CEDESPAS Norte); representatives from the Ministry of Energy and Mines (MINEM) and the Dialogue and Sustainability National Office; and the participation from Ricardo Morel, Miguel Inchaustegui and Elisban Belisario.

I am grateful to all the academics and colleagues who encouraged me to continue with my studies, including Dr Steward Broadie for his pastoral support and guidance during my first two years of the PhD; Dr Gizem Morris for her friendship, support in managing my impostor syndrome and her inspiration as lecturer; Max Harris, for his patience and valuable suggestions regarding the thesis structure;

and I am grateful to all my colleagues at University of Westminster and friends, including Nan, Kate, Setenay, Farlon, Ola, Sabine and Francesco, for their steadfast encouragement during this journey.

I would like to thank my family who inspired me to undertake this research. To Mauro, my father, for sharing with me his views regarding the mining industry from the eyes as a former farmer from Caraveli, Arequipa region, who became a mining geologist and taught me the common-good value. To Olga, my mother, for showing me the reality of Peru from the Huancavelican social worker perspective. I have always greatly valued her egalitarian perspective, connection to nature and great sense of humour when dealing with very sensitive cases at the Agrarian University in Lima. Even though she joined our motherland more than fifteen years ago, I know she would be very proud of this accomplishment.

Finally, I would like to thank my two siblings, Dr Rossana Espinoza-Ramos, who encouraged to undertake the PhD journey and her patience when providing guidance and Dr Manuel Espinoza-Ramos, my brother, who gave me the legal advice in Peru, whilst also helping me to find some potential interviewees. Despite none of us being 'real doctors' who hold surgeries, I am sure that our family is immensely proud of us.

Author's declaration

I declare that all the material contained in this thesis is my own work.

Signed: Gustavo R. Espinoza-Ramos

Date: 28-01-21

List of abbreviations

CEDESPAS Norte	The Ecumenical Centre for Promotion and Social Action North
CG	Corporate Governance
CIPRL	The Regional and Local Public Investment - Treasury
Certificate	
CSR	Corporate Social Responsibility
DESCO	Centre for Studies and Development Promotion
DRA	The Regional Directorates of Agriculture
EIA	Environmental Impact Assessment
EU	The European Union
GDP	Gross domestic product
HA:	Hectares
IGOs	Intergovernmental organisation
ILO	The International Labour Organisation
INEI	National Institute of Statistics and Informatics
LOF	Liability of Foreignness
MINEM	Ministry of Energy and Mining
MT:	Metric tonnes
NGO	Non-governmental organisation
OECD	The Organisation for Economic Cooperation and
Development	
OEFA	The Agency for Environmental Assessment and Enforcement
ONDS	Dialogue and Sustainability National Office
PCM	The Presidency of the Council of Ministers
PGP	Pretty Good Privacy
PICI	Indigenous Peoples in Initial Contact
PIP	Public Investment Project
SLO	Social Licence to Operate
SENACE	The National Environmental Certification Service
SME	Small or medium-sized enterprise
TIR	Travel Insurance Request
UN	United Nations
USAID	United States Agency for International Development

Chapter One - Introduction

1.1. Introduction to the research topic

During the last decade, mining in Peru has become one of the major contributors for growth in employment and one of the main sources of fiscal revenues in the country, which has led to a rapid economic growth. However, the lowering prices of the country's largest commodity exports such as gold, copper and zinc,¹ has held back previous the steady economy growth,² which has led to a fluctuation in mining investment in the country from US\$ 1,249 million in 2007 to US\$ 8,864 million in 2013, US\$ 3,334 million in 2016 and then US\$ 6,157 million in 2019.³ Additionally, the Ministry of Energy and Mining (MINEM) has pointed out that income from the mining sector in Peru, originating from mining taxes (canon), royalties and rights of validity and penalty fluctuated from US\$ 1,599 million in 2007 to US\$ 1,268 million in 2013, US\$ 740 million in 2016 and then US\$ 1,295 million in 2019 as seen in Figure 1.1. Hence this positive impact of mining has represented one of the pillars of the economic development in the country. However, the impact of mining in developing countries does not only reside on the positive economic results.

The impact of the mining industry in developing countries has been the subject of intense scrutiny through the 'resource curse theory', where it is argued that there is little evidence that real socio-economic development from mining comes to those communities in primary resource rich areas.⁴ A study during the 1980s in Peru, Bolivia and Zambia found that mineral-rich countries perform less well than those with scarce mineral wealth.⁵ Bebbington argues that in some Andean countries, such as Peru, Bolivia and Ecuador, it is difficult to identify a positive contribution to

¹ Ernst and Young, 'Peru's Mining & Metals Investment Guide 2019/2020' (2019) <http://www.embajadaperu.org.co/docs/Mining_2019_-_2020.pdf> accessed 30 May 2019.

² *ibid.*

³ Ministerio de Energia y Minas, 'Anuario Minero 2019' (2020) <www.gob.pe/minem> accessed 31 July 2020.

⁴ Emma; Gilberthorpe and Glenn Banks, 'Development on Whose Terms?: CSR Discourse and Social Realities in Papua New Guinea's Extractive Industries Sector' (*Resources Policy*, 2012) 185 <<http://dx.doi.org/10.1016/j.resourpol.2011.09.005>> accessed 26 November 2014.

⁵ Richard M Auty, *Sustaining Development in Mineral Economies : The Resource Curse Thesis* (1st edn, Routledge 1993).

local and regional development from the extractive industry.⁶ Additionally, Banks points out that most of the economic benefits from large-scale mining operations are in favour of corporate sectors, instead of local communities.⁷

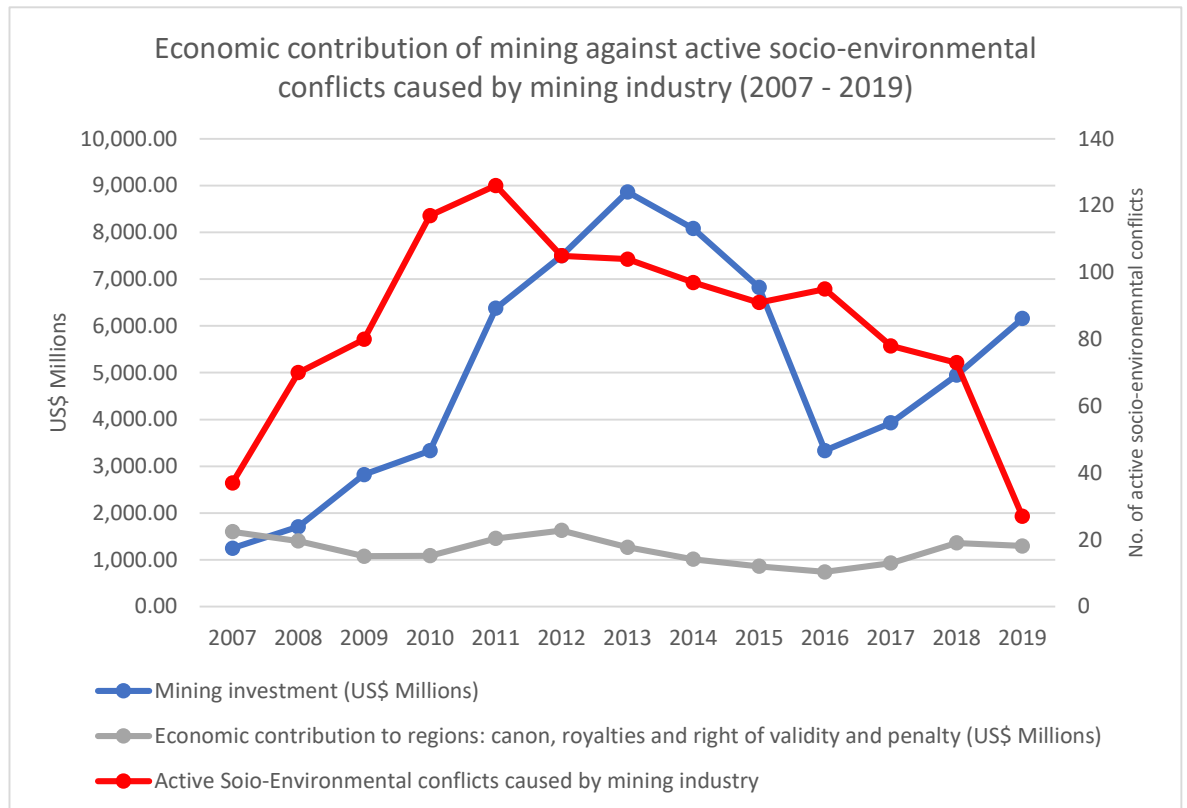


Figure 1.1: Economic contribution of mining against socio-environmental conflicts in Peru: 2007 to 2019⁸

However, the mining industry cannot be held as being the only agent responsible for this 'curse', as Mehlum, Moene and Torvik argue that a weak governance in

⁶ Anthony Bebbington, 'Extractive Industries and Stunted States: Conflict, Responsibility and Institutional Change in the Andes' in Ronnie D Raman, K Ravi ; Lipschutz (ed), *Corporate social responsibility: comparative critiques* (Palgrave Macmillan 2010).

⁷ Glenn Banks, 'Activities of TNCs in Extractive Industries in Asia and the Pacific: Implications for Development1' (*Transnational Corporations*, 2009) 43

<<http://libra.msra.cn/Publication/10838754/activities-of-tncs-in-extractive-industries-in-asia-and-the-pacific-implications-for-development1>> accessed 21 January 2015.

⁸ Note: Adapted from social conflict monthly reports from 2006 to 2020 Defensoria del Pueblo, 'Defensoría Del Pueblo - Conflictos Sociales - Reporte Mensual' (2020).

<<http://www.defensoria.gob.pe/temas.php?des=3#r>> accessed 10 January 2020., series nacionales Instituto Nacional de Estadística e Informática - INEI, 'Series Nacionales' (*Series Nacionales*, 2020)

<<https://www.inei.gob.pe/buscador/?tbusqueda=pbi>> accessed 1 January 2020., Boletín estadístico Mensual de Minería Enero 2017 Petroleo y Energía Sociedad Nacional de Minería, 'Boletín Estadístico Mensual Minería - Enero 2020' (2020) 1 <<http://www.snmpe.org.pe/informes-y-publicaciones/boletin-estadistico-mensual/mineria/4513-boletin-estadistico-mensual-mineria-enero-2017.html>> accessed 11 January 2020.

countries with abundant natural resources can also lead to this situation.⁹ Previous studies have found that in developing countries, ruled by governments with weak and poor regulatory capacities, corruption, bureaucratic processes and insecurity of property rights; the development of public services, rather than being seen as a state responsibility, are delegated to the discretion of the private sector,¹⁰ as part of their Corporate Social Responsibility (CSR). As a result of this delegation, mining companies are seen as agents of development often more so than government.¹¹

Meza-Cuadra points out that in Peru most of the major mining projects are located in remote, deprived areas, usually populated with native and indigenous origin communities,¹² where the lack of administrative capacities from regional and local governments has led to difficulties in the decentralised political administrative process, thus resulting in limited social and economic development. Additionally, the Peruvian central government's dual role in promoting mining investment, whilst also regulating the sector could lead to an absence of trust from local communities regarding mining operations and the government.¹³ Regarding which, this government's dual role, means that these communities become mistrustful, seeing it as only a matter of time before the government turns a blind eye towards mining companies failing to comply with all the legal requirements to start operations.

The governments' protection to mining investment, the environmental disruption caused by mining projects combined with lack of compliance with interest group

⁹ Halvor Mehlum, Karl Moene and Ragna Torvik, 'Institutions and the Resource Curse' (2006) 116 *The Economic Journal* 1 <http://www.jstor.org/stable/3590333?seq=1#page_scan_tab_contents> accessed 18 February 2015.

¹⁰ Dima Jamali and Ramez Mirshak, 'Corporate Social Responsibility (CSR): Theory and Practice in a Developing Country Context' (*Journal of Business Ethics*, 2007) 243.

¹¹ Deanna Kemp, 'Community Relations in the Global Mining Industry: Exploring the Internal Dimensions of Externally Orientated Work' (2010) 17 *Corporate Social Responsibility and Environmental Management* 1.

¹² Sonia Meza-Cuadra, 'Corporate Social Responsibility in the Peruvian Mining Industry' in David Crowther and Nicholas Capaldi (eds), *The Ashgate research companion to corporate social responsibility* (2008).

¹³ *ibid.*

demands, can cause shutdowns and slow-ups.¹⁴ This can lead to social conflict, as pointed out by Franks *et al.*¹⁵:

“[I]arge-scale natural resource extraction projects (including exploration and processing activities) profoundly transform environments, communities, and economies, and often generate social conflict.”

Notably, the number of active socio-environmental conflicts related to the Peruvian mining industry increased from 37 in 2007 to 104 in 2013, but this was followed by a continuous reduction to 78 in 2017 and 27 in 2019 (See Figure 1.1).¹⁶ This trend can be attributed to a new, socially responsible approach that some mining companies are incorporating in their practices to deliver a fair distribution of economic and social development, and to avoid conflicts. This approach involves the formation of partnerships of business with different sectors that include government, non-governmental organisations (NGOs), multilateral bodies and local community organisations. This collaboration in the creation of CSR initiatives has produced different forms, such as tri-sector partnerships,¹⁷ social partnerships¹⁸ and cross-sector partnerships to address social issues.¹⁹

¹⁴ Jason Prno and D Scott Slocombe, ‘Exploring the Origins of “Social License to Operate” in the Mining Sector: Perspectives from Governance and Sustainability Theories’ (2012) 37 *Resources Policy* 346 <<http://dx.doi.org/10.1016/j.resourpol.2012.04.002>> accessed 20 April 2018.

¹⁵ Daniel M Franks and others, ‘Conflict Translates Environmental and Social Risk into Business Costs.’ (2014) 111 *Proceedings of the National Academy of Sciences of the United States of America* 7576 <<http://www.ncbi.nlm.nih.gov/pubmed/24821758>> accessed 10 April 2019.

¹⁶ Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 106 – Diciembre 2012’ (2013); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 46 – Diciembre 2007’ (2008); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 70 – Diciembre 2009’ (2010); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 82 – Diciembre 2010’ (2011); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 94 – Diciembre 2011’ (2012); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 58 – Diciembre 2008’ (2009); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 118 – Diciembre 2013’ (2014); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 130 – Diciembre 2014’ (2015); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 142 - Diciembre 2015’ (2016); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 154 - Diciembre 2016’ (2017); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 166 - Diciembre 2017’ (2018); Defensoría Del Pueblo, ‘Reporte De Conflictos Sociales No. 190 - Diciembre 2019’ (2020).

¹⁷ Ralph Hamann, ‘Corporate Social Responsibility, Partnerships, and Institutional Change: The Case of Mining Companies in South Africa’ (2004) 28 *Natural Resources Forum* 278 <<http://doi.wiley.com/10.1111/j.1477-8947.2004.00101.x>> accessed 26 November 2014.

¹⁸ Bradley K Googins and Steven A Rochlin, ‘Creating the Partnership Society: Understanding the Rhetoric and Reality of Cross-Sectoral Partnerships’ (2000) 105 *Business and Society Review* 127 <<http://doi.wiley.com/10.1111/0045-3609.00068>> accessed 20 April 2015.

¹⁹ John W Selsky and Barbara Parker, ‘Cross-Sector Partnerships to Address Social Issues: Challenges to Theory and Practice’ (2005) 31 *Journal of Management* 849 <https://www.researchgate.net/publication/247570170_Cross-

Maon et al.²⁰ add that CSR involves a variety of practices and partnerships that take into account public concerns. Kemp argues that the participation of interest groups creates CSR initiatives that normally occur at the policy level, whilst in some cases, this can impact on the organisational structures and practice at the operational level.²¹ Reed and Reed²² hold that partnerships are seen as an approach to accomplishing tasks that individual organisations cannot achieve alone²³ and that they have demonstrated the capacity for the collaborating parties to deliver the collective goal of sustainable development.²⁴ For mining companies, a key outcome of these partnerships is the obtaining the Social Licence to Operate (SLO) from the local peasant community, defined by Thompson and Boutilier as:

*'the social license is rooted in the beliefs, perceptions, and opinions held by the local population and other stakeholders about the mine or project. It is therefore 'granted' by the community [... and] subject to change as new information is acquired. Hence, the social license has to be earned and then maintained.'*²⁵

Consequently, the effectiveness of the partnership leading to the approval of an SLO and the success of CSR initiatives depends on the evaluation of the results by the stakeholders. The main challenge in the implementation of a partnership in the extractive industry in Peru is to tailor it according to the reality of the Andean mining sector, which means the following need to be addressed:

Sector_Partnerships_to_Address_Social_Issues_Challenges_to_Theory_and_Practice> accessed 20 April 2018.

²⁰ François Maon, Adam Lindgreen and Valérie Swaen, 'Thinking of the Organization as a System: The Role of Managerial Perceptions in Developing a Corporate Social Responsibility Strategic Agenda' (2008) 25 Systems Research and Behavioral Science 413 <<http://doi.wiley.com/10.1002/sres.900>> accessed 20 April 2015.

²¹ Kemp (n 11).

²² Ananya Mukherjee Reed and Darryl Reed, 'Partnerships for Development: Four Models of Business Involvement - ProQuest' (2009) 90 Journal of Business Ethics 3 <<http://search.proquest.com/docview/198094595?OpenUrlRefId=info:xri/sid:primo&accountid=14987>> accessed 20 April 2015.

²³ Simon Zadek, *The Civil Corporation : The New Economy of Corporate Citizenship* (1st edn, Routledge 2001).

²⁴ Dinah Rajak, 'Theatres of Virtue: Collaboration, Consensus and the Social Life of Corporate Social Responsibility' (*Focaal - European Journal of Anthropology*, 2011) 9 <<http://dx.doi.org/10.3167/fcl.2011.600102>> accessed 25 November 2014.

²⁵ *SME Mining Engineering Handbook* (Peter Darling ed, 3rd edn, Society for Mining Metallurgy & Exploration 2011) 1779.

- Mutual distrust among the various interest groups;²⁶
- NGO's capacity to manage projects, credibility and effectiveness can be negatively impacted in that their independent work can be brought in question when they seek to obtain available funding;²⁷
- Different interests held by partnership members can lead to relationships facing major disagreements, thus threatening the breaking out of conflict;²⁸
- Companies can have difficulty in balancing participation and meeting the development and corporate objectives;²⁹
- The misuse of power by corporations and stakeholders;³⁰ and
- Different socio-legal conditions of the host country could affect the legal validity of partnership agreements.³¹

1.2. Justification for the Study

The purpose of this research is to make an original contribution to knowledge of the understanding of CSR and development of social partnerships in the mining industry

²⁶ Jennifer M Brinkerhoff, *Partnership for International Development : Rhetoric or Results?* (Lynne Rienner Publishers 2002)

<http://explore.bl.uk/primo_library/libweb/action/display.do?frbrVersion=2&tabs=moreTab&ct=display&fn=search&doc=BLL01010758463&indx=1&reclds=BLL01010758463&recldxs=0&elementId=0&renderMode=poppedOut&displayMode=full&frbrVersion=2&dscnt=1&scp.scps=scope%3A> accessed 20 April 2015.

²⁷ *ibid.*

²⁸ Sandra .A Waddock, 'Building Successful Social Partnerships' (*Sloan Management Review*, 1988) 17

<http://linker.westminster.ac.uk/sfx_wmin?frbrVersion=4&ctx_ver=Z39.88-2004&ctx_enc=info:ofi/enc:UTF-8&ctx_tim=2015-01-26T18:46:16IST&url_ver=Z39.88-2004&url_ctx_fmt=info:ofi/fmt:kev:mtx:ctx&rfr_id=info:sid/primo.exlibrisgroup.com:primo3-Article-proquest> accessed 26 January 2015.

²⁹ Manuel London, 'CSR Partnership Initiatives: Opportunities for Innovation and Generative Learning' (*Organizational Dynamics*, 2012) 220 <<http://dx.doi.org/10.1016/j.orgdyn.2012.03.005>> accessed 27 January 2015.

³⁰ Subhabrata Bobby Banerjee, 'Corporate Citizenship and Indigenous Stakeholders' (2001) 2001 *Journal of Corporate Citizenship* 39.

³¹ Ibrinke Odumosu-Ayanu, 'Governments, Investors and Local Communities: Analysis of a Multi-Actor Investment Contract Framework' (2014) 15 *Melbourne Journal of International Law* 1.

in Peru. Accordingly, the CSR literature and its application in developing countries are explored. The study is of value and interest for several reasons, including:

Whilst the literature of CSR has increased in the last decade, it has mainly been focused on developed countries in Western Europe, United States and Australia and hence, there is a need for more empirical research of this practice in developing countries.³² In particular, Haslam³³ highlights that there is a paucity of CSR literature regarding Latin America. Most of the CSR studies in Latin America have been focused on Argentina, Brazil and Mexico, where CSR activity has increased. However, in countries such as Colombia, Peru, Bolivia, Paraguay and Venezuela, there is a need to study CSR activities.³⁴

This research contributes to knowledge regarding the development of CSR practices in the mining sector in Peru through the implementation of partnerships between organisations, including local peasant communities, mining companies, government and third parties. Regarding which, Solomon *et al.* hold that:

*“[t]here was a concern that while good social research on issues such as community engagement has been carried out over the last decade, implementation on the ground is far less developed.”*³⁵

More studies are required on the participation of civil society, as suggested by Clarke,³⁶ who identified the lack of research on partnership implementation. In addition, Seitanidi and Crane point out:

³² Rahman Belal, 'A Study of Corporate Social Disclosures in Bangladesh - 02686900110392922' (2001) 16 *Managerial Auditing Journal* 274

<<http://www.emeraldinsight.com/doi/pdfplus/10.1108/02686900110392922>> accessed 7 March 2015; Jamali and Mirshak (n 10); W Visser, 'Corporate Social Responsibility in Developing Countries' (*The Oxford Handbook of Corporate Social Responsibility*, 2008) 473 <<http://onlinelibrary.wiley.com/doi/10.1002/csr.212/full>> accessed 25 February 2015.

³³ Pa Haslam, 'The Corporate Social Responsibility System in Latin America and the Caribbean' (*Policy Paper*, 2004) 1 <https://www.focal.ca/pdf/csr_Haslam-FOCAL_corporate_social_responsibility_system_Latin_America_Caribbean_March_2004_FPP-04-1.pdf> accessed 7 March 2015.

³⁴ *ibid.*

³⁵ Fiona Solomon, Evie Katz and Roy Lovel, 'Social Dimensions of Mining: Research, Policy and Practice Challenges for the Minerals Industry in Australia' (*Resources Policy*, 2008) 142 145 <http://ac.els-cdn.com/S0301420708000251/1-s2.0-S0301420708000251-main.pdf?_tid=c077d256-a89c-11e4-b215-00000aabb0f02&acdnat=https://coek.info/pdf-social-dimensions-of-mining-research-policy-and-practice-challenges-for-the-mine.html> accessed 20 July 2019.

³⁶ 'Cross Sector Collaborative Strategic Management: Regional Sustainable Development Strategies', *Scoping Symposium: The Future Challenges of Cross Sector Interactions* (2007).

“despite their great attraction for the various sectors involved, the ways that BUS [business]–NPO [non-profit organisations] partnerships can and should be implemented are not well understood.”³⁷

This study contributes to the understanding of how the legal, socio-economic and cultural characteristics of a country represent institutional forces that form ‘rules of society’ that determine a legitimate type of behaviour by individuals and organisations. The use of the New Institutional theory supports the study of these forces and rules that determine the definition and extent of socially responsible behaviour by companies.³⁸ Moreover, the New institutional theory supports the understanding of the effectiveness of CSR through partnerships within different sectors in a developing country.

1.3. Motivation

The initial motivation to undertake this research originated during job experience in 2011 in the family business, when the researcher was an investor relations assistant for a small Peruvian mining company. This company started operations in 2006 and commercialises the following concentrates: lead-silver, zinc and copper. It operates in the Yungar district, province of Carhuaz, Ancash region in Peru, where other medium-size mining companies, including Antamina, operate.

This work experience allowed the researcher to learn basic Quechua, the language spoken most in the Andes, and also to meet different groups of interest that included

³⁷ Maria May Seitanidi and Andrew Crane, ‘Implementing CSR through Partnerships: Understanding the Selection, Design and Institutionalisation of Nonprofit-Business Partnerships’ (2009) 85 *Journal of Business Ethics* 413, 414.

³⁸ Jonathan P Doh and Terrence R Guay, ‘Corporate Social Responsibility, Public Policy, and NGO Activism in Europe and the United States: An Institutional-Stakeholder Perspective’ (2006) 43 *Journal of Management Studies* 47 <<http://doi.wiley.com/10.1111/j.1467-6486.2006.00582.x>>; Isabelle Maignan and David A Ralston, ‘Corporate Social Responsibility in Europe and the U.S.: Insights from Businesses’ Self-Presentations’ (2002) 33 *Journal of International Business Studies* 497 <<http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=18269192-06a6-4b85-8b6c-3ccee5b0ece%40sessionmgr103&vid=1&hid=102>>; M Orlitzky, FL Schmidt and SL Rynes, ‘Corporate Social and Financial Performance: A Meta-Analysis’ (2003) 24 *Organization Studies* 403 <<http://oss.sagepub.com/content/24/3/403>> accessed 24 February 2015.

the leaders of the Andean peasant community, 'Comunidad Campesina 3 de Octubre – Zanja'. The researcher participated in meetings with local community representatives in order to build and maintain good relationships with them. This relationship was forged through the development of an open dialogue, where expectations on both sides came to be highly respected. The mine manager and owner were responsible for gathering the demands and expectations from the local community, and understanding its idiosyncrasies, which led to the implementation of solutions that fitted the company's economic viability. For example, in the first two years of exploration, the company invited members of the community to observe how a geologist took samples of the rocks.

This initiative and the weekly meetings with the community leaders led to the company gaining trust and in 2009, both parties signed a 'not legally binding' agreement pertaining to a guaranteed monthly economic payment; the construction of a bridge to cross the near river; the donation of supplies during the community anniversary; provision of sporting activities; and the training and employment at the mining site of community members. Despite the fact that the mining company could not employ all of them at the same time, the community proposed a rota such that everyone would obtain some work, which was accepted by the company. Later, in 2000 and 2013, the mining company and the comuneros (local people) signed easement agreements that specifies the fees, and duties and responsibilities between both parties.

The researcher left the company in 2013. In 2014, due to low commodity prices and loan debts, the owners sold the company and the management style changed. In the same year, in a conversation with the former owner, he mentioned that the new owners did not comply with their obligations as specified in the agreement. An example was the reluctance of the company to hire local labour, instead choosing to automate the operating process to save costs. This brought discontent from the local community and they decided to deny the company access to the main road to the mine. Consequently, and despite having all the licences approved by the Peruvian government, the operations stopped.

After this incident, the former owner of the mining company was contacted by the local leaders of the community and asked to take back ownership of the mine. However, he pointed out that this was not feasible as he had sold it and so, it was now under new management. Hence, despite having all the require licences to operate the mine, that is, the formal or informal authorisation from the near local community that constitutes the most important permission to start working, there was no commencement of operations.

This valuable experience intrigued the researcher as to how a small mining company had such a good relationship with the local peasant community despite the lack of a community relations office, with most of these duties resting on the mine manager and owner; whereas limited economic resources were allocated to investing in social responsibility actions; and the paucity of guidance regarding Corporate Social Responsibility (CSR) policies for a small mining company.

These distinctive characteristics in Peru and the researcher's interest in how community participation with a mining company can positively contribute to the sustainable development of rural areas are what stimulated him to undertake this study.

1.4. Research objectives

The brief background information provided in section 1.2 has revealed the socio-economic impact of mining operations in Peru. It has been elicited that the social responsibility of companies in the extractive industry and the development of partnerships are matters that require investigation, as previously they have received scant attention. Consequently, the following objectives are pursued.

- To analyse the definition of Corporate Social Responsibility (CSR) as well as identifying the stakeholders and CSR practices in the Peruvian mining sector.

- To examine how a set of law that promotes the development of social partnerships shape the relationship between members of the peasant community (known as comuneros) and mining companies.
- To examine how a set of value dimensions dictates the comuneros and mining companies' perception of social reality towards corporate social responsibility.
- To examine how the symbolic construct of social reality determines the understanding of CSR, its initiatives and forms of social partnerships.
- To evaluate how the clashes of stakeholders' institutional logics and the process of institutional change favour the development of social partnerships.

1.5. Research questions

This thesis seeks to address the following research question:

How do the regulative, normative, cultural-cognitive elements of new institutional theory impact on the understanding of Corporate Social Responsibility (CSR) in the form of social partnerships in the Peruvian Mining industry?

The sub questions arising from this main research question are:

- Q1: How do the regulative elements of the new institutional theory shape the dynamics between comuneros and mining companies?
- Q2: How do the normative elements of the new institutional theory shape the dynamics between comuneros and mining companies?
- Q3: How do cultural-cognitive elements of new institutional theory shape the dynamics between comuneros and mining companies?

1.6. Methodological approach

The choice was taken mainly to undertake qualitative research, because this allowed for an in-depth study of the participants' representation of reality underpinning CSR in regard to the development of partnerships. The study is based on the interpretations and experiences from the interest groups, including representatives from peasant communities, mining companies, government and third parties. Similarly, indigenous methodology is used to understand the meaning of social reality from the point of view of Andean peasant communities, as it provides a bridge to capturing the unheard voices of native people, thereby shedding light on their ontological and epistemological stances.

Participants' interpretation of the reality is influenced by the legal, socio-economic and cultural context, that may be different from each interest group, and the interaction between these groups. For that reason, the research paradigm is centred on social constructivism as it establishes that reality is socially constructed by meaning that individuals who live there by interaction, sharing ideas, and reflection.³⁹

This qualitative research is also supported by interpretivism as the most suitable epistemological approach, which considers that the interpretations of social reality are highly subjective, whereby they are shaped by the perceptions of different communities⁴⁰ towards history, traditions and the interaction with other groups. The researcher needs to acknowledge, for example, that the social reality for members of an Andean peasant community is more connected with nature, than it is for citizens who live on the coast.

The external factors in Peru such as the legal, socio-economic and cultural characteristics of the country determine the meaning of the socially responsible behaviour of companies and the need of partnerships to develop CSR initiatives.

³⁹ Bob Matthews and Liz Ross, *Research Methods: A Practical Guide for the Social Sciences* (Longman 2010); Mark Saunders, Philip Lewis and Adrian Thornhill, *Research Methods for Business Students* (Pearson Education 2008) <<https://www.dawsonera.com/abstract/9780273716938>> accessed 20 April 2015.

⁴⁰ Jill Collis and Roger Hussey, *Business Research* (4th edn, Palgrave Macmillan MUA 2014).

Hence, new institutional theory is deemed a suitable theoretical framework for this study as it analyses the impact of participants' norms of behaviour including law and values; and their symbolic representation of reality that shape the meaning of the socially responsible behaviour by mining companies in Peru.

Whilst quantitative methods are used in order to provide a contextual background regarding the socio-economic and environmental impact of mining companies in the Ancash, the main data collection is qualitative in nature. The data collection involved the following:

- Semi- structured Interviews

Seven pilot face-to-face interviews were carried out to identify common themes relating to the current regulatory arrangements in terms of whether they foster or hinder public participation in the implementation of CSR initiatives; the mining companies and Andean peasant communities position regarding the establishment of partnership agreements in the mining sector; the perceptions about the economic, social and environmental development of rural communities; and the role of the government in the promotion of partnership agreements.

These pilot interviews involved the participation of representatives from:

- Mining companies and consultancies: Gold Fields La Cima, Paron S.A.C, Poch
- NGOs: the Ecumenical Centre for Promotion and Social Action North (CEDESPAS Norte)
- Local and central government: A consultant from the Dialogue and Sustainability National Office (ONDS); and
- Academia: Centre for Studies and Development Promotion (Desco)

The pilot interview allowed the identification of the salient themes, which were focused on when drawing up the interview schedule for the subsequent 46 semi-structured, face-to-face interviews with representatives from:

- Mining companies and consultancies: Minera Antamina, Barrick, Bear Creak, Minera Plomo S.A.C. and Buenaventura
 - Communities: Comunidad Campesina 3 de Octubre – Zanja, Tres de Octubre – Zanja, San Marcos, Huallanca, Tres de Mayo Yaquash, Huaripampa, Juan Antonio de Juprog, San Luis, Trigo Pampa, and Andres Avelino Caceres - Cuncashca
 - Non-profit organisations: Caritas, United States Agency for International Development (USAID), and Swisscontact
 - Local and central government: consultants from the National Environmental Certification Service (SENACE), the Dialogue and Sustainability National Office, Ministry of Energy and Mines (MINEM), Ministry of Environment, and mayors/local leaders
- Aspects of the indigenous methodology drawn upon in order to gather knowledge from representatives of the peasant communities. This involved not only interviews, but also, observation that involved capturing their oral stories transferred through the generations and information about their traditions, in a participatory manner. Similarly, the researcher participated in native peoples' celebrations and daily activities, which facilitated grasping understanding of their ontological and epistemological stances. An indigenous methodology acknowledges that there are different ways of knowing, establishes boundaries between the western and indigenous context,⁴¹ whilst also seeking to give volume to the lost voices and visions of the people being studied.⁴²

⁴¹ Linda Tuhiwai Smith, *Decolonizing Methodologies : Research and Indigenous Peoples* (Zed Books 1999).

⁴² Kwesi Yankah, 'African Folk and the Challenges of a Global Lore' (1999) 46 *Africa Today* 9
<http://muse.jhu.edu/content/crossref/journals/africa_today/v046/46.2yankah.html>.

- Case study: This research comprised three case studies of mining companies: Minera Paron S.A.C; Minera Antamina; and Santa Luisa. The interviewees for each case study were asked about the signed partnership agreements (in the form of an easement agreement and two framework agreements respectively) they were party to. Specifically, they were questioned about the conditions of the partnerships, the interest groups involved, the CSR actions implemented and any incidents that had occurred during this process.

1.7. Structure of the Research

This thesis is organised into eight chapters centred on the specific theme as follows.

Chapter one outlines background information about the research and the socio-economic impact of the mining industry in Peru that provides the justification of the study, personal and academic motivation; identifies key elements in the structure of the study including the objectives, research question and research methodology; and signposts the structure of the chapters.

Chapter two examines background information of Peru and Ancash for understanding how the historic, socio-demographic, economic and regulatory characteristics of Peru that favour mining investment, and the socio-economic impact of the mining industry in Ancash region set the foundations to understand the stakeholders' perceptions and expectations of CSR and their roles in the development of partnerships. Similarly, this chapter analyses a set of law that promotes the development of social partnerships.

Chapter three undertakes a literature review of Corporate Social Responsibility (CSR), its evolving definition across multiple theories contextualising its meaning and suitability. This chapter proposes New Institutional theory as a holistic approach to analyse the impact of the regulative, normative and cultural-cognitive elements in the understanding of CSR and development of partnerships.

Chapter four develops and justifies the methodological framework to undertake the study and answer the research questions by exploring the researcher's ontological and epistemological paradigms on which qualitative multi-methods between qualitative and indigenous methodologies represent a holistic approach to understand native and non-native people's different interpretations of the socially constructed meaning of CSR and development of partnerships.

Chapter five analyses the findings related to the Regulative elements of institutionalism in Peru that shapes the understanding of CSR in Peru and the development of partnership agreements in the mining industry. This chapter also explores the institutions, institutional clashes, and process of institutional change within the regulative elements that support the answer of the first sub research question

Chapter six documents the results of the semi-structured interviews with focus on the Normative elements of institutionalism in Peru that guides the legitimate behaviour in the relationship between mining companies and peasant communities. This chapter also deepens the analysis of the institutions, institutional clashes, and process of institutional change within the normative elements that support the answer of the second sub research question

Chapter seven offers the empirical findings regarding the Cultural-Cognitive elements of institutionalism that are the symbolic representation of social reality, which contribute to the analysis of the institutions, institutional clashes, and process of institutional change within the Cultural-Cognitive elements that support the answer of the third sub research question.

Chapter eight provides an overall summary of the study, discusses the major study findings by each sub research question, and answers the main research question. In addition, this chapter discusses the limitations of the study, and makes recommendations for further research.

Chapter Two - Peru: background and context

This chapter provides socio-demographic, economic and regulatory background information of Peru in the context of mining. Specifically, a review of the classification of mining in Peru, its socio-economic impact on Andean peasant communities, and the ecosystem of law that shapes the understanding of CSR and the development of partnerships in the mining industry that lay the foundations for subsequent institutional analysis.

2.1. Peru's background information

This section provides distinctive characteristics of Peru including geography, population, language, and political-economic structures; and peasant communities to understand how socio-demographic, economic and political factors shape the participants' perception towards the mining industry and CSR.

2.1.1. Geography

Peru is located on the South America, with an area of 1.29 million km², thus being the third largest country in the American subcontinent after Brazil and Argentina.⁴³ Geographically, it is composed of 24 regions and divided into three distinct areas.⁴⁴

- The Coast is a 3,080km-long narrow desert strip, and although it only represents 11.7% of Peruvian territory, it contains the majority of the population (60.4%). In addition, the capital city, Lima, is located in this region.
- The Highlands represents 27.9% of the territory and comprises 26.9% of the population. This region holds most of Peru's major mineral deposits and is the zone where most peasant communities are located. The focus of this research is on the Ancash region located in this zone.

⁴³ Ernst and Young (n 1).

⁴⁴ *ibid.*

- The Amazon Jungle represents 60.4% of Peru's territory, but only 12.7% of the population lives there. It is rich in petroleum and forestry resources.

2.1.2. Population

The 2017-national census found that the total population in Peru was 31,237,385 habitants,⁴⁵ and the distribution based on ethnic self-perception was as follows: Peruvians self-identifying as mestizo or white and Amerindian ancestry (60.2%), Quechua (22.3%), White (5.9%), Afro Peruvian (3.6%), Aymara (2.4%), native / indigenous people (1.1%), and Nikkei (0.1%). Clearly, Quechua, Aymara and Mestizo populations identify themselves as distinct from native / indigenous people. This disconnect in the self-identification towards native/indigenous people is due to a misconception of the 'indigenous' word in relation to the language and political history, as detailed below.

2.1.3. Language

Spanish is the official language in Peru. However, since 1985, Peru recognised Quechua and Aymara as official native languages. Moreover, the Law No 29735 enacted in 2011 acknowledges 47 native languages,⁴⁶ of which only four are spoken in Highlands, while the remaining 43 are spoken in the Peruvian Amazon.⁴⁷

Cotler points out that indigenous people in Peru only speak Quechua or Aymara; they are involved in rural activities, work as peasants and occupy the lowest positions in the social hierarchy.⁴⁸ The mestizo or white and

⁴⁵ INEI, 'Censos Nacionales 2017: XII de Población, VII de Vivienda y III de Comunidades Indígenas' (2018) <https://www.inei.gob.pe/media/MenuRecursivo/publicaciones_digitales/Est/Lib1437/libro.pdf> accessed 30 May 2019.

⁴⁶ Congreso de la Republica, Ley No 29735: Ley que regula el uso, preservación desarrollo, recuperación, fomento y difusión de las lenguas originarias del Perú 2011 445799.

⁴⁷ RPP Noticias, 'Perú Tiene 47 Lenguas Nativas, La Mayoría Habladas En La Selva Amazónica' *RPP Noticias* (Lima, 27 May 2013) 1 <<https://rpp.pe/cultura/literatura/peru-tiene-47-lenguas-nativas-la-mayoria-habladas-en-la-selva-amazonica-noticia-598493>> accessed 30 May 2019.

⁴⁸ 'La Mecánica de La Dominación Interna y Del Cambio Social En El Perú', *Política y sociedad en el Perú: cambios y continuidades* (1st edn, Instituto de Estudios Peruanos 1994).

Amerindian ancestry speak Spanish, live in urban zones and are not peasants. This classification has resulted in prejudice in terms of race, region, culture and social class towards native and indigenous population and consequently,⁴⁹ many people try to distance themselves from being named as such.

2.1.4. Political and economic structures

Peru is a constitutional republic, which after gaining its independence from Spain in 1821, went through military and civil governments involving clashes between the oligarchy and the working class, but native / indigenous people's rights were excluded. According to Fitzgerald,⁵⁰ the economic policy was centred on the exportation of guano, saltpetre, fishery manufacturing industries,⁵¹ sugar, cotton and minerals. The presence of extractive industries as engines of economic development increasingly grew throughout the 20th century. Figueroa pointed out that between the 1930s and 1940s agriculture represented the most important industry in the Peruvian economy.⁵² After a period of reconstruction and during Prado's rule in mid-60s, liberal politics were established centred on the promotion of foreign investment and private industry that created a foreign economic dependency.

The military dictatorship of Juan Velasco Alvarado from 1968 to 1975 endeavoured to solve economic inequalities through agrarian reform and the nationalisation of private companies through expropriation, in industries including mining, fishing, financial and telecommunications. During the military government the national economic development was centred on the mining industry and the export of metals, with an emphasis on supporting to small and medium scale mining operations.⁵³

⁴⁹ Americo Ferrari, 'El Concepto de Indio y La Cuestión Racial En El Perú En Los "Siete Ensayos"', de José Carlos Mariátegui' (1984) 50 Revista Iberoamericana 395.

⁵⁰ *La Economía Política Del Perú 1956-1978: Desarrollo Económico y Reestructuración Del Capital* (1st edn, Instituto de Estudios Peruanos (IEP) 1981).

⁵¹ 'La Cuestión Distributiva En El Perú' in Julio Cotler (ed), *Peru 1964 - 1994: Economía, sociedad y política* (1st edn, Instituto de Estudios Peruanos 1995).

⁵² *ibid.*

⁵³ Juan Velasco Alvarado, 'Mensaje a La Nación Del Presidente Del Perú, General de División Juan Velasco Alvarado' (*Congreso de la Republica*, 1969) 1

During the 1980s, Peru faced an economic crisis and discontent from the majority of the population. Successive governments tried to bring economic stability in Peru, nevertheless, serious disputes between political parties and the outbreak of civil war led to the country becoming submerged in a deep economic and social crisis. It was not until the 1990s, under Fujimori's rule, that the government was able to implement orthodox economic and political policies centred on trade openness and the promotion of foreign investment, especially in the extractive industry, through relaxation of the environmental regulations and the creation of tax incentives.⁵⁴ In the 2000s, the government followed similar economic policies that led to a continuous reduction in poverty levels between 2009 (33.5%) and 2016 (20.7%).⁵⁵

A distinctive characteristic in Peru is corruption that has become a norm permeating the government as well as public and private companies. The perception of public sector corruption confirms this as, according to the Corruption Perceptions Index, for out of 180 countries, Peru is the 105th least corrupt country, with the same score and rank as Algeria, Brazil, Ivory Coast, Egypt, El Salvador and Zambia.⁵⁶ The cost of corruption in Peru is difficult to estimate, but the International Monetary Fund estimates that it represents 2% of the GDP in each country.⁵⁷ Similarly, the Ombudsman released a report in 2016 on the number of open cases of corruption committed by public officials, with Lima, Ancash and Junin being the regions registering the most (see table 2.1).⁵⁸

<http://www.congreso.gob.pe/participacion/museo/congreso/mensajes/mensaje_nacion_congreso_28_julio_1969> accessed 15 April 2019.

⁵⁴ Javier Arellano-Yanguas, 'Aggravating the Resource Curse: Decentralisation, Mining and Conflict in Peru' (2011) 47 *Journal of Development Studies* 617.

⁵⁵ INEI, 'Población En Situación de Pobreza, Según Ámbitos Geográficos' (*Instituto Nacional de Estadística e Informática (INEI)*, 2018) <<https://www.inei.gob.pe/estadisticas/indice-tematico/sociales/>> accessed 31 May 2019.

⁵⁶ Transparency International, 'Corruption Perceptions Index 2018' (2019) <<https://www.transparency.org/cpi2018>> accessed 31 May 2019.

⁵⁷ International Monetary Fund, 'Corruption: Costs and Mitigating Strategies' (2016) <<https://www.imf.org/external/pubs/ft/sdn/2016/sdn1605.pdf>> accessed 31 May 2019.

⁵⁸ Defensoría del Pueblo Peru, 'Mapas de La Corrupción En El Perú' *Defensoría del Pueblo Peru* (Lima, 16 May 2019) <<https://www.defensoria.gob.pe/presentamos-los-mapas-de-la-corrupcion-en-el-peru-a-nivel-nacional/>> accessed 31 May 2019.

Table 2.1: Open cases of corruption committed by public officials

Open cases of corruption committed by public officials		
Region	2016	2018
Lima	6205	7553
Ancash	2771	4636
Junin	2261	2109
Ayacucho	1876	1947

2.1.5. Andean peasant communities

Previous subsections have shown socio-demographic and economic characteristics of Peru that have had an impact in the self-identification and the traditions of peasant communities, such as their cooperative structures and their agricultural economic activities that have lasted since the pre-Hispanic era.⁵⁹ Every 24th June, Peru celebrates the ‘Day of the Peasant’ that was originally named the ‘Day of the Indian’, which was established on 23rd May 1930, during the government of Augusto B. Leguia.⁶⁰ Regarding this earlier name, there was controversy, as the term ‘Indian’ was used by the colonisers to refer to the traditional people descending from the Incas, which held a contemptuous and stigmatising meaning.⁶¹ The chroniclers, intellectuals and politicians, when using the term ‘Indian’, highlight their illiteracy and the oppression conditions that they lived under, which led to the term having such a derogative meaning. For example, Ferrari argues that some chronicles represent the American traditional people as different to humans in nature, but rather, similar to beasts.⁶² Meanwhile, Gonzales Prada uses the word indigenous and Indian to refer traditional Peruvians and the exploitation that they lived under during the Viceroyalty of Peru,

⁵⁹ Jurgen Golte, ‘Nuevos Actores y Culturas Antiguas’ in Julio Cotler (ed), *Peru 1964 - 1994: Economía, sociedad y política* (1st edn, Instituto de Estudios Peruanos 1994).

⁶⁰ Laura Giraud, ‘Celebrar a Los Indígenas, Defender Al Indigenismo: El “Día Del Indio” y El Instituto Indigenista Interamericano’ (2017) 43 *Estudios Ibero-Americanos* 81 <<http://dx.doi.org/10.15448/1980-864X.2017.1.24069>> accessed 31 July 2020.

⁶¹ Fernando Eguren, ‘¿Campesino, Indígena o Agricultor Familiar?’ [2015] *La Revista Agraria* 7.

⁶² (n 49).

where “the dominators approach the Indian to deceive, oppress or corrupt him”.⁶³ Similarly, Marapi adds that this term, was used to justify the social hierarchy in colonial times and hence,⁶⁴ those identifying with the Peruvian Andes were seen as being inferior.

On 24th June 1969, the Law No. 17716, Agrarian reform was enacted during the military dictatorship of Juan Velasco Alvarado.⁶⁵ The reform meant an economic and social transformation that included the expropriation of agricultural lands from ‘gamonales’ and landowners, which were given to the peasant communities, who had originally worked the land. It was at this time that the name of the celebration ‘Day of the Indian’ was changed to ‘Day of the peasant’ to recognise the rights of the Andean people, their traditional economic activity and to highlight the importance of agriculture in Peruvian economy. Consequently, this change in the regulations and celebration in favour of the population of peasant communities meant that they began to self-identify as ‘peasants’, rather than as ‘indigenous’ people.⁶⁶

However, the criticism to this change in terminology is that it ignored the cultural differences of peasant communities,⁶⁷ as it only centred on the identification of native people based on their economic activity. It thus brought a new challenge in the identification of peasant communities as to whether they were indigenous communities or native people or whether they belong to a different group. This is demonstrated in the population distribution based on ethnic self-perception from the 2017 National Census,⁶⁸ as shown in subsection 2.1.2.

⁶³ Manuel Gonzalez Prada, ‘Nuestros Indios’ in Jose Davalos (ed), *Latinoamerica cuadernos de cultura latinoamericana* 29 (Union de Universidades de America Latina 1978) 12
<http://ru.ffyl.unam.mx/bitstream/handle/10391/2973/29_CCLat_1978_Gonzalez_Prada.pdf?sequence=1> accessed 17 April 2019.

⁶⁴ Ricardo Marapi, ‘Perú: Identidades Indígenas: De Indio a Campesino, de Campesino a Indígena’ (2012)
<<https://www.servindi.org/actualidad/67357>> accessed 15 April 2019.

⁶⁵ Congreso de la Republica, Decreto Ley No. 17716 - Nueva Reforma Agraria 1969.

⁶⁶ A Schilling-Vacaflor and R Flemmer, ‘Conflict Transformation through Prior Consultation ? Lessons from Peru’ (2015) 47 *Journal of Latin American Studies* 811.

⁶⁷ Eguren (n 61).

⁶⁸ INEI, ‘Censos Nacionales 2017: XII de Población, VII de Vivienda y III de Comunidades Indígenas’ (n 45).

The socio-demographic and economic characteristics have led to a distrusting culture by peasant communities towards persons from outside their community. For example, distrust towards foreigners was seen during colonial times, when the Spanish conqueror, Francisco Pizarro, deceived the Inca Atahualpa through false promises after they captured him that, if he converted to Catholicism, they would not kill him, for they did so anyway after his conversion.⁶⁹ Consequently, foreigners are perceived as entities of deception, who seek to take advantage of the good faith of the peasants through lies in order to meet their own interests. This perception is reinforced by 'Ama Llulla' (do not lie), one of the three Inca principles that still represents a norm of behaviour in native people.

Despite the historic, socio-economic disadvantage of peasant communities, there have been attempts to protect comuneros' rights, such as in article 89 of the Peruvian constitution, which acknowledges Peasant and Native Communities as legal persons; their autonomy is recognised in their organisation, communal work, the use of their lands, and in their economic and administrative activities.⁷⁰ However, it is important to analyse the socio-economic and environmental impact of mining operations in comuneros' rights.

2.2. Mining industry in Peru and Ancash

Mining has an importance heritage in Peruvian culture dating back to pre-Inca times, although it occupied a secondary role in their economic system, with metals, such as gold and copper being used in the manufacture of ornamental objects and tools such as Tumis (ceremonial knives).⁷¹ Currently, mining in Peru occupies a central role in the economic development of the country.

⁶⁹ María Isabel Remy Simatovic, 'Historia y Discurso Social: El Debate de La Identidad Nacional' in Julio Cotler (ed), *Perú 1964-1994: economía, sociedad y política* (Instituto de Estudios Peruanos 1995).

⁷⁰ Constitución Política Del Peru - 1993 2013 52.

⁷¹ Alberto Regal Alberti, 'Las Minas Incaicas' (1946) 14 *Revista de la Universidad Católica* 43.

2.2.1. Classification of mining in Peru

Mining in Peru can be classified according to the type of activity, nature of the substances, exploitation method and size. Table 2.2 shows the classification of mining according to the amount mined.⁷² The participants in this research are involved in great, medium-size and small mining projects in Ancash region.

Table 2.2: Classification of mining according to size

Classification of mining according to size				
Criteria	Great Mining	Medium Mining	Small Mining	Artisanal Mining
According to the size of the concession	N.A	N.A	Up to 2,000 ha	Up to 1,000 ha
Production capacity	More than 5,000 MT/day	Up to 5,000 MT/day	Up to 350 MT/day	Up to 25 MT/day

Ha: Hectares

MT: Metric tonnes

2.2.2. Mining investment

During the last two decades, Peru has attracted investment from local and foreign mining companies. According to the Ministry of Energy and Mines,⁷³ the regions that received most investment for mining projects during 2017 were Tumbes (US\$ 720,688,622); Arequipa (US\$ 529,234,768); Tacna (US\$ 503,817,952); Cusco (US\$ 386,729,864); Ica (US\$ 375,421,828);

⁷² The medium and great mining companies are only distinguished according to the production volume of the specified in the Supreme decree N° 002-91-EM-DGM; Alfredo Dammert Lira and Fiorella Molinelli Aristondo, 'Panorama de La Minería En El Perú' (2007)

<<http://www.osinerg.gob.pe/OSINERG/investigacion>> accessed 1 June 2019.

⁷³ 'Cuadro Histórico de Inversión Minera Según Tipo de Inversión a Nivel Regional (2000-2018)' (*Estadística: Inversión Minera*, 2019) <http://www.minem.gob.pe/_estadisticaSector.php?idSector=1> accessed 1 June 2019.

Moquegua (US\$ 369,000,952) and Ancash (US\$ 275,313,278). The investment in Ancash has decreased considerably since 2012,⁷⁴ as can be seen in figure 2.1., but it still attracts the interest of foreign investors and is an important source of economic development.

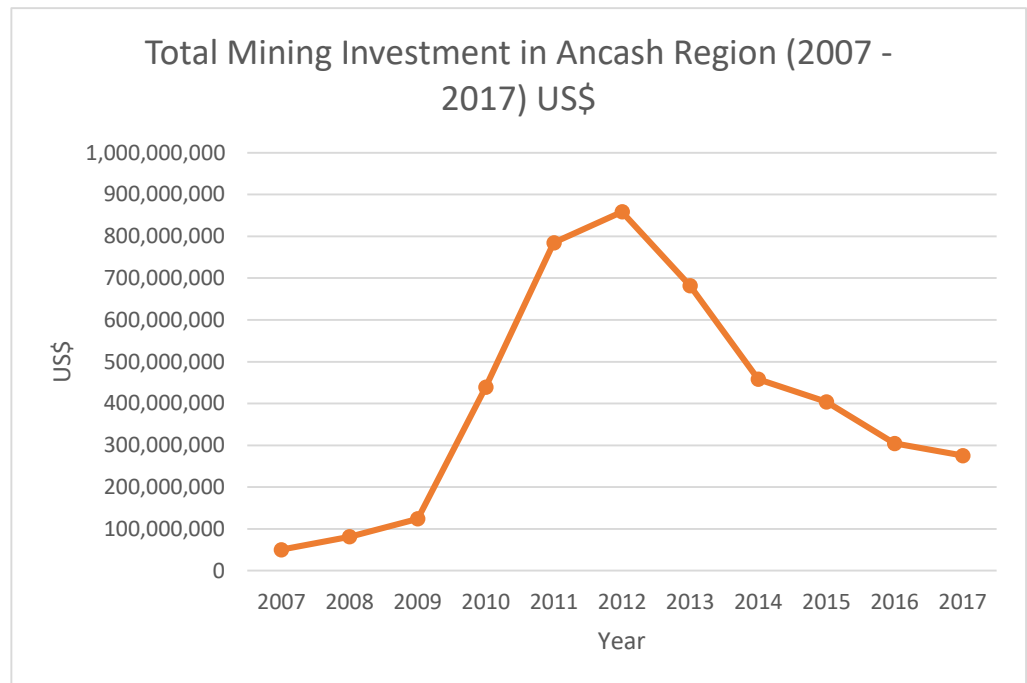


Figure 2.1: Law 29230 – Total Investment (\$US million) from 2009 - 2015

2.2.3. Production

Peru is one of the most mineral-rich countries in the world, as figure for the last decade have shown. For example, in 2019, Peru was recognised as a key world producer of minerals and in Latin America, it is the largest producer of gold, zinc and lead, as can be seen in table 2.3.⁷⁵ The Ancash region is involved in the production of these three products in addition to silver, copper and molybdenum, which indicates its strong dependence on mining.⁷⁶

⁷⁴ *ibid.*

⁷⁵ Ministerio de Energía y Minas, 'Anuario Minero 2019' (n 3).

⁷⁶ Ministerio de Energía y Minas, 'Anuario Minero 2017 - Peru' (2018).

Table 2.3: Peru's position in the world ranking of mining production (2019) and Latin America

Peru's position in the world ranking of mining production (2019)		
ORE	LATIN AMERICA	WORLD
Gold	1	8
Copper	2	2
Silver	2	2
Zinc	1	2
Lead	1	3
Tin	1	4
Molybdenum	2	4
Cadmium	2	9

Ancash has all the four size categories of mining companies identified in subsection 2.2.1. Figure 2.2 shows the major mining projects in operation in 2017, including El Saucó, Nueva California, Pierina, Shuntur, Contonga, El Recuerdo, Antamina and Santa Luisa, with the two lattermost being foci for this research study. Whilst Ancash has 3,211 mining concessions, only 42 of them are mining projects in the operation stage⁷⁷ and just 43 are in the exploration stage.⁷⁸

⁷⁷ The mining life cycle can be divided into four stages: exploration, development, operation and closure

⁷⁸ British Columbia Mine Information, 'The Mining Lifecycle' (*British Columbia Mine Information*, 2020) <<https://mines.nrs.gov.bc.ca/lifecycle>> accessed 7 May 2020; MINEM, 'Major Mines Map' (*Mining maps*, 2019) 1

<http://www.minem.gob.pe/minem/archivos/file/Mineria/PUBLICACIONES/MAPAS/2020/2020_MAPA_PR_OYECTOS.pdf> accessed 5 January 2020.



Figure 2.2: Major Mines Map 2017⁷⁹

⁷⁹ MINEM, 'Major Mines Map' (n 78).

2.2.4. The impact of mining

The investment and the production of mining operations has a positive economic impact on the central government and the regional government of Ancash through the mining canon, validity rights, penalties and royalties, which they invest in public services. However, as seen in subsection 1.1., the economic contribution from mining in Peru sharply fluctuated between 2007 (US\$ 1,599 million) and 2019 (US\$ 1,295 million); meanwhile the number of registered social conflicts followed a continuous reduction since 2013 (104) to 2019 (27).⁸⁰

This economic contribution from mining has a moderate positive impact in mining regions in Peru. Regarding this matter, the level of poverty in Ancash (see figure 2.3) decreased between 2007 (40.73%) and 2017 (23.05%).⁸¹ However, according to INEI,⁸² in 2017, Ancash had the 10th highest poverty rate (23.05%) out of 24 regions in Peru, with Cajamarca having the highest (43.08%), whilst Ica and Madre de Dios had the lowest (about 2%). This demonstrates that more work can be done by the central and regional governments to improve the socio-economic conditions of the local population in mining regions.

⁸⁰ Note: Adapted from social conflict monthly reports from 2006 to 2020 Defensoría del Pueblo, 'Defensoría Del Pueblo - Conflictos Sociales - Reporte Mensual' (2020). <<http://www.defensoria.gob.pe/temas.php?des=3#r>> accessed 10 January 2020; Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 166 - Diciembre 2017' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 154 - Diciembre 2016' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 142 - Diciembre 2015' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 130 - Diciembre 2014' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 118 - Diciembre 2013' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 106 - Diciembre 2012' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 94 - Diciembre 2011' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 82 - Diciembre 2010' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 70 - Diciembre 2009' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 58 - Diciembre 2008' (n 16); Defensoría Del Pueblo, 'Reporte De Conflictos Sociales No. 46 - Diciembre 2007' (n 16).

⁸¹ INEI, 'Incidencia de La Pobreza Por Grupos de Departamentos Segun Intervalos de Confianza 2007 - 2017' (*Sistema de Informacion Regional para la Toma de decisiones*, 2019) <<http://webinei.inei.gob.pe:8080/SIRTOD/inicio.html#app=8d5c&d4a2-selectedIndex=1&d9ef-selectedIndex=1>> accessed 4 June 2019.

⁸² INEI, 'Incidencia de Pobreza Por Grupos de Departamentos' (*Sistema de Informacion Regional para la Toma de Decisiones*, 2019) <<http://webinei.inei.gob.pe:8080/SIRTOD/inicio.html#app=8d5c&d4a2-selectedIndex=0&d9ef-selectedIndex=0>> accessed 31 May 2019.

Nevertheless, some initiatives to tackle social issues, such as illiteracy and malnutrition or to improve agricultural capabilities are part of CSR programmes developed by mining companies and not down to government. This has created an overlap in the role of mining companies and government in the delivery of public services and welfare.

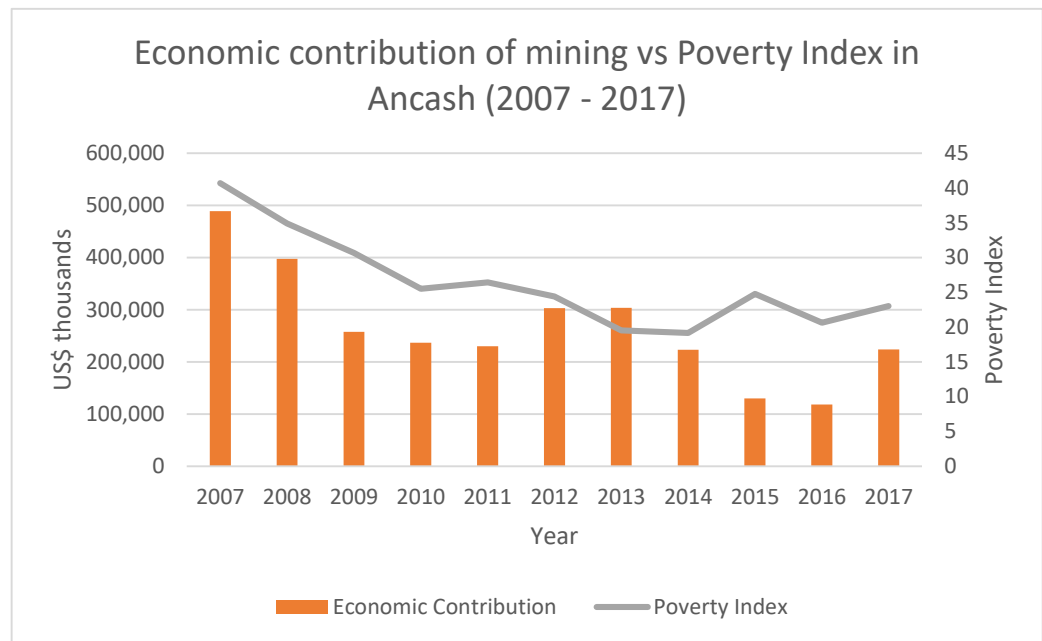


Figure 2.3: Economic contribution of mining vs Poverty Index in Ancash (2007 – 2017)

The government is not the only direct beneficiary of the economic contribution derived from mining investment, as direct employment from mining operations represents a source of income to the local population, being one of the industries that offers them the highest levels of payment. Whilst since 2007 the total employment rate (135,007) in mining has fluctuated in recent years, by 2017 it had reached 189,962,⁸³ as seen in figure 2.4.

⁸³ MINEM, 'Anuario Minero: Report Estadístico - Peru 2016' (2017) <http://www.minem.gob.pe/minem/archivos/file/Mineria/PUBLICACIONES/ANUARIOS/2016/ANUARIO_MINERO_2016.pdf> accessed 4 June 2019; Ministerio de Energía y Minas, 'Anuario Minero 2017 - Peru' (n 76).

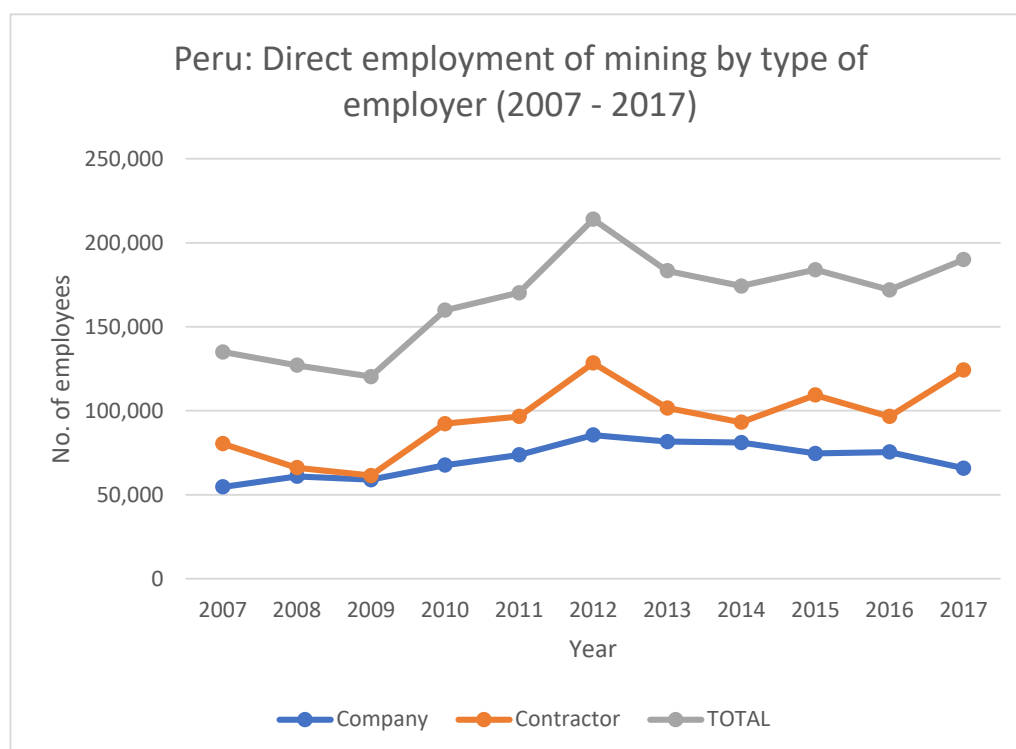


Figure 2.4: Direct employment of mining by type of employer (2007 – 2017)

The importance of direct employment that the mining industry offers to the country has led to governmental intervention to regulate local employment. To this end, the Supreme Decree No. 042-2003-EM promotes the employment of personnel from nearby communities,⁸⁴ where there is a direct impact of mining operations. It can be seen that local employees are most prevalent in the regions where mining operations are located, except in some regions that have a higher percentage of foreign employees out of their total labour including: Apurimac (70%), Ayacucho (71%), Cajamarca (52%), Cusco (81), Lima (59%), Moquegua (68%) and Tacna (66%) (see table 2.3).⁸⁵ The employment of local labour is not only demanded by law, but also, the local communities as a principle of legitimate behaviour of mining companies. Despite the socio-economic benefit of local employment, this initiative promotes a structural dependency on the mining

⁸⁴ Establecen compromiso previo como requisito para el desarrollo de actividades mineras y normas complementarias 2003 257055.

⁸⁵ Ministerio de Energía y Minas, 'Anuario Minero 2019' (n 3).

industry, as is demonstrated in the abandonment of agricultural work and migration of comuneros to other mining towns.

Table 2.4: Mining employment according to the origin of the worker (2018)

Mining employment according to the origin of the worker (2017)		
Region	Regional	Foreign
Amazonas	70%	30%
Áncash	49%	51%
Apurímac	30%	70%
Arequipa	58%	42%
Ayacucho	29%	71%
Cajamarca	48%	52%
Callao	88%	12%
Cusco	19%	81%
Huancavelica	65%	35%
Huánuco	59%	41%
Ica	63%	37%
Junín	52%	48%
La Libertad	60%	40%
Lambayeque	100%	0%
Lima	41%	59%
Loreto	0%	100%
Madre de Dios	98%	2%
Moquegua	32%	68%
Pasco	67%	33%
Piura	79%	21%
Puno	64%	36%
San Martín	100%	0%
Tacna	34%	66%
TOTAL	52.00%	48.00%

During the ten-year span since 2007 there was less economic contribution from mining to the Ancash region,⁸⁶ although it was the region that received the highest amount (US\$ 223,950 thousand),⁸⁷ followed by Arequipa (US\$ 157,626 thousand); La Libertad (US\$ 94,761 thousand); Apurimac (US\$ 93,052 thousand); Cajamarca (US\$ 72,105 thousand); and Cuzco (US\$ 65,854 thousand). Over, the same time period, there was an incremental rise in the number of registered social conflicts in Ancash, from 6 in 2007; 20 in 1011; and 27 in 2017 (figure 2.5),⁸⁸ thus showing that the government needs to participate in attending to the social demands of native people near to mining operations, as these have a negative impact on the welfare of comuneros.

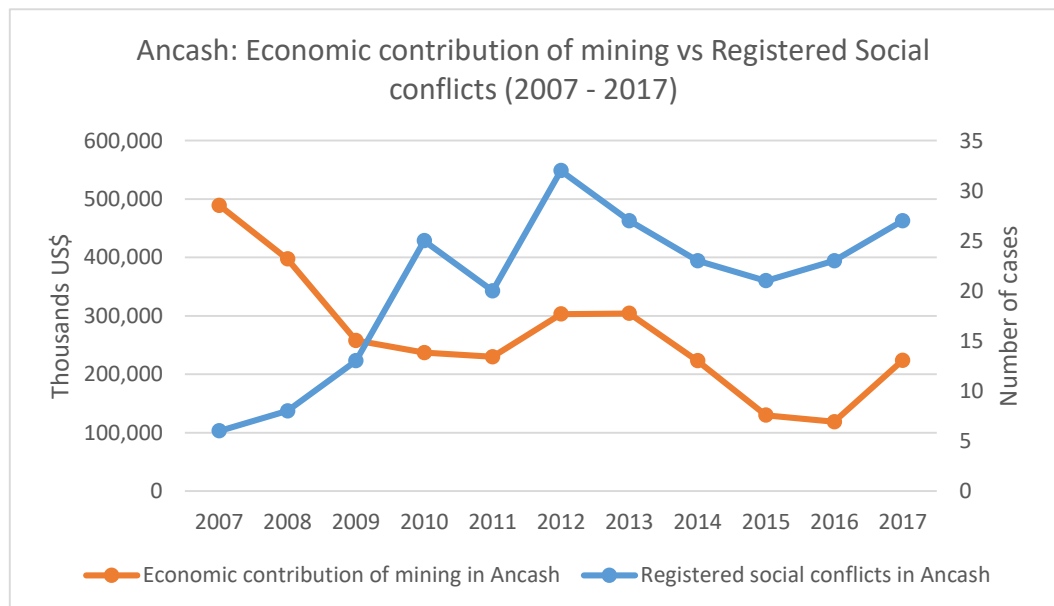


Figure 2.5: Ancash - Economic contribution of mining vs registered social conflict (2007 – 2017)

2.3. Ecosystem of law in CSR and social partnerships

Section 2.1 demonstrated how neo-liberal policies prevail as the economic model centred in terms of foreign investment and privatisation of the industry.

⁸⁶ INEI, 'Aporte Económico de La Actividad Minera 2005 - 2017' (*Sistema de Informacion Regional para la Toma de Decisiones*, 2019) <<http://webinei.inei.gob.pe:8080/SIRTOD/inicio.html#app=8d5c&d4a2-selectedIndex=1&d9ef-selectedIndex=0>> accessed 4 June 2019.

⁸⁷ *ibid.*

⁸⁸ *ibid.*

Consequently, the law follows this model and for this reason Peru does not have a regulations pertaining to the application of CSR and the development of partnerships. Instead, there is an ecosystem of law that covers some specific components of CSR that are embedded in the development of partnerships that are covered in this section, including the protection of the environment and native and indigenous people's rights, regulation of mining industry, and legal tools to promote tax benefits.

The reason for the absence of strong law that promotes partnerships is the weak governmental capabilities and lack of interest in regulating the free market. Slack points out that in developing countries governments have limited capacity to regulate mining operations,⁸⁹ and as a consequence there is a lack of compliance with the ecosystem of law. A view supported by Perez-Batres *et al.*⁹⁰, who argue that law in developing countries is more flexible than in developed ones, which leads to emerging market firms not complying with CSR reporting guidelines.

The ecosystem of law that covers some specific components in the development of partnerships includes: mining law, General Environmental Law, Prior consultation Law, General law of peasant communities, 'Work for Taxes' Law, and Public Private Associations.

2.3.1. Mining Law

The General Mining law was approved by Congress on June 2nd, 1992, by supreme decree No. N° 014-92-EM.⁹¹ It covers the regulation of mining activities, leases, rights and duties of mining lease owners, mining investment measures, occupational security and the environment. This law has been subject to modifications aimed at protecting the environment and promoting mining investment. The main criticism is that, whilst it should regulate mining activities, it promotes foreign investment in a way that limits

⁸⁹ 'Mission Impossible?: Adopting a CSR-Based Business Model for Extractive Industries in Developing Countries' (2012) 37 Resources Policy 179.

⁹⁰ 'CSR, Sustainability and the Meaning of Global Reporting for Latin American Corporations' (2010) 91 Journal of Business Ethics 193.

⁹¹ Texto Unico Ordenado de la Ley General de Minería 2009 1.

the regulatory control of mining operations. The Ministry of Energy and Mines (MINEM) is the sector's principal regulator.

An important issue that this law addresses relates to land ownership and mining leases. In Peru, land has two property owners, with the government having ownership of the sub-surface mineral resources, whilst private owners own the surface of the land. Consequently, the mining lease gives companies the right to exploit the natural resources, but not to use the surface terrain.⁹² For this reason, companies sign an easement agreement with the private owner of the surface of the land, peasant communities, in favour of its economic exploitation.⁹³ The management of two different owners' land is a big challenge, with the government providing guidelines that facilitate access to obtaining a mining lease and other licenses to operate the mine. However, there is no involvement in this negotiation for a lease by the comuneros and their demands are only registered after it being granted. Another challenge related to land property in the Andes is that the location and ownership of some land are not officially registered in a cadastre,⁹⁴ which creates disputes on the extent of surface ownership by peasant communities and the amount of land expropriation by the mining company, which leads to social conflict.

As a solution to resolving differences in land ownership and as there is no clear law in the development of partnerships, an easement agreement is, in essence, a contested version of a model of partnership. It contains the benefits that peasant communities receive for lending their communal lands to mining operations, whilst also including proposed CSR initiatives. It is thus advisable to register the formation of the peasant community and the easement agreement in the public registry to give it legal binding.

⁹² Abigail Jholaine Gonzales López, 'La Servidumbre Minera: ¿solución Viable Para La Actividad Minera?' (2018) <https://derecho.usmp.edu.pe/cedemin/revista/explorando_veta/La_Servidumbre_Minera.pdf> accessed 27 July 2020.

⁹³ Ernst and Young (n 1).

⁹⁴ Martín Mejorada Chauca, 'Las Servidumbres y La Explotación de Recursos Naturales' (2003) 13 *Ius Et Veritas* 12 <<http://revistas.pucp.edu.pe/index.php/iusetveritas/article/view/16259/16675>> accessed 27 July 2020.

2.3.2. General Environmental Law

The General Environmental Law No. 28611, enacted in October 2005,⁹⁵ establishes that business activities must take in consideration the implementation of environmentally and socially responsible policies. The law establishes that natural resources exploration and exploitation projects located on the land of indigenous and native communities must adopt measures to avoid detriment to their cultural, social and economic values.

Moreover, the law includes a Social Management Plan⁹⁶ aimed at mitigating the negative social impact of mining by embedding the citizen participation process⁹⁷ within all the stages of the evaluation of the Environmental Impact Assessment (EIA).⁹⁸ This covers communications, code of conduct, community development plan, social investment scheme and social impact monitoring programme. The law mandates the appointment of the government regulatory entities, whereby the Agency for Environmental Assessment and Enforcement (OEFA by its Spanish acronym) supervises the compliance of the Social Management Plan, whilst the MINEM monitors the social commitments signed within the plan. This scenario creates a clash in the communication and monitoring of social agreements between two governmental entities, and the dual responsibility of the MINEM in promoting and monitoring the mining industry.

The citizen participation mechanisms include accessibility to:⁹⁹ the executive summary or full EIA; suggestion and observation boxes; and informative workshops and a public audience. However, access to the social commitments that are part of the EIA in the form of framework agreements or easement agreements was not possible in this research, as MINEM sees them as private agreements between two parties and they failed to provide their consent. This has led to a lack of transparency regarding the management of social commitments of companies that have

⁹⁵ Ley General del Ambiente - Texto Concordado 2006 1.

⁹⁶ Article 60. Ley General del Ambiente

⁹⁷ Supreme Decree N ° 002-2009-MINAM

⁹⁸ Reglamento de la Ley del Sistema Nacional de Evaluación de Impacto Ambiental 2009 35.

⁹⁹ *ibid.*

obtained mining leases, which has proven problematic for local communities as well as being a hinderance to meeting the objectives of this research.

This law includes citizen participation mechanisms to hear their concerns and demands, but it does not provide the right of veto to mining operations, only requiring these companies to attend to community concerns on the socio-environmental impact on the EIA. Given these limitations on accessibility to social commitments and the right of veto, this law sheds light on the social construction of CSR in a developing country.

2.3.3. Prior consultation Law

The law No. 29785, known as the Prior Consultation law, recognises Convention 169 of the International Labour Organisation (ILO). It was published in September 2011,¹⁰⁰ and was approved by the Supreme decree N° 001-2012-MC on April 2012.¹⁰¹ The purpose of the law is to guarantee the collective rights of native and indigenous peoples who can give their consent to legislative or administrative measures that affect them directly,¹⁰² including the authorisation of an activity or project and the granting of contracts. The legislative or administrative measures are overseen by public bodies, including the Presidency of the Council of Ministers (PCM), ministries as well as local and regional governments. The law acknowledges those native or indigenous peoples in peasant or Andean communities, and those in Amazonian locations,¹⁰³ which are classified in the official database managed by the Vice Ministry of Culture.¹⁰⁴ Table 2.4 demonstrates the strong presence of peasant communities in the highlands (98.56%), whilst indigenous communities are located in the rainforest (99.91%).¹⁰⁵

¹⁰⁰ Ley del derecho a la Consulta Previa a los pueblos indígenas u originarios, reconocido en el convenio 169 de la Organización Internacional del Trabajo (OIT) 2011 449529.

¹⁰¹ Reglamento de la Ley N° 29785, Ley del Derecho a la Consulta Previa a los Pueblos Indígenas u Originarios reconocido en el Convenio 169 de la Organización Internacional del Trabajo (OIT) 2012 463587.

¹⁰² Article 1 of the rule of Law No 29785

¹⁰³ Article 3 of the rule of Law No 29785, subsection k.

¹⁰⁴ Article 8 of the rule of Law No 29785, subsection 8.2

¹⁰⁵ Ministerio de Cultura del Perú, 'Pueblos Indígenas: Base Completa de Centros Poblados' (2020) <<https://bdpi.cultura.gob.pe/busqueda-de-localidades-de-pueblos-indigenas>> accessed 2 August 2020.

Table 2.5: Native / Indigenous communities by natural region (2020)¹⁰⁶

Native / indigenous communities by natural region (2020)				
Natural Region	Peasant Community	%	Indigenous Community	%
Rainforest	235	0.72%	3464	99.91%
Highlands	32353	98.56%	3	0.09%
Coast	237	0.72%	0	0.00%
TOTAL	32825	100.00%	3467	100.00%

However, the identification and acknowledgement of native and indigenous communities is challenging for three key reasons: first, when the law was enacted, the official database was undergoing development and consequently, some mining projects started operations without having the need to start the consultation process. Second, there is the lack of an official cadastre that identifies the location of Andean peasant communities, as seen in subsection 2.3.1. Both of these factors demonstrate a lack of governmental capability to support the application of the law since it was enacted.

Third, the level of adherence to the listed criteria in relation to being identified as native or indigenous peoples is highly subjective,¹⁰⁷ including: the direct descent from the original population of the national territory; lifestyle, and spiritual and historical links with the territory they traditionally occupy; own social institutions and customs; different cultural patterns and way of life from other groups of the national population metrics used for ascertaining whether someone fits into this category or not.¹⁰⁸

¹⁰⁶ Whilst the law identifies native and indigenous communities, the official database does not use the term 'native community'. Instead, it uses 'peasant community' to refer to those from the highlands and forest areas, and 'indigenous community' to refer communities from Amazon and a very small number from the highlands.

¹⁰⁷ Article 7 of the of Law No 29785

¹⁰⁸ Article 3, of the rule of Law No 29785, subsection k).

This criterion does not specify that native or indigenous communities do necessarily live in isolation, poverty and without access to technology to be acknowledged as such. Moreover, during the fieldwork, it was noticeable that some of these communities exhibit socio-economic development being they are located near to modern urban areas or they might migrate to wealthier regions. However, during the fieldwork, some representatives from mining companies perceive that communities that self-identify as native people but have access to technology, are not poor or do not live in isolation, should not be acknowledged as such.

The Prior Consultation law does not allow the right of veto during the consultation process. However, in case of no agreement, the government is entitled to impose a decision, thus ensuring that the collective rights of indigenous communities are respected.¹⁰⁹ However, as pointed in subsection 2.1.4, the government's neoliberal economic model centred on privatisation and foreign direct investment has led to compromising the protection of the collective rights of communities in favour of mining investment.

At the end of July 2020, the official database indicated that the regions with highest numbers of peasant communities were Cusco (1st), Ayacucho (2nd) and Puno (3rd). Ancash occupies 7th position, with 2,318 peasant communities, and 44 localities with no clear type identified by the Regional Directorates of Agriculture (DRA by its Spanish acronym) (see table 2.6). The regions with the highest number of indigenous communities are Loreto (1st); Ucayali (2nd) and Amazonas (3rd); that can be seen in table 2.5. The provinces in Ancash that host the highest number of peasant communities are Huaraz (434), Bolognesi (255), Carhuaz (229) and Huari (226),¹¹⁰ with the latter three being the provinces that the research was focussed on. However, despite the presence of peasant and indigenous communities in

¹⁰⁹ Article 23 of the rule of Law No 29785, subsection 23.3

¹¹⁰ Ministerio de Cultura del Perú, 'Pueblos Indígenas: Base Completa de Centros Poblados' (n 105).

Ancash, until May 2019, this region only registered four prior consultation processes.¹¹¹

Table 2.6: Distribution of type of settlement by region (2020)¹¹²

Distribution of type of settlement by region (2020)				
Region	Peasant community	Indigenous Community	PICI Settlement	Unidentified locality by DRA
Amazonas	192	440		227
Áncash	2318			44
Apurímac	2677			78
Arequipa	1110			8
Ayacucho	4934	7		66
Cajamarca	11	17		15
Cusco	5144	134	1	242
Huancavelica	4207			113
Huánuco	3678	51		157
Ica	49			
Junín	800	433		213
La Libertad	165			18
Lambayeque	174			8
Lima	646			16
Loreto	15	1430		386
Madre de Dios		43	3	10
Moquegua	574			9
Pasco	1415	242		135
Puno	4355			153
San Martín	1	194		88
Tacna	360			
Ucayali		476	1	155
TOTAL	32825	3467	5	2141

¹¹¹ Ministerio de Cultura del Perú, 'Procesos de La Consulta Previa' (*Consulta Previa*)

<<http://consultaprevia.cultura.gob.pe/proceso/#>> accessed 2 January 2020.

¹¹² Indigenous Peoples in Initial Contact (PICI by its Spanish acronym) are indigenous peoples, or part of them, that although they live in isolation, they have begun a process of interrelation with other members of the national society. However, these people do not fully know the functioning of the majority society, and do not necessarily share their patterns and codes of social interrelation; Ministerio de Cultura del Perú, 'Pueblos Indígenas: Base Completa de Centros Poblados' (n 105); Ministerio de Cultura del Perú, *Los Pueblos Indígenas En Aislamiento y Contacto Inicial de La Amazonía Peruana: Mecanismos Para La Protección de Sus Derechos* (2016).

The Prior Consultation law promotes public participation during the consultation process to gather the native population's concerns and suggestions to ensure social responsibility of mining. The outcome represents the foundation for the establishment of partnership agreements and the identification of CSR initiatives. However, the participatory approach is in jeopardy when mining projects are approved by the government, despite the community objecting to them.

2.3.4. General law of peasant communities No. 24656

Known as the peasant Community Law, it was enacted on April 14th, 1987;¹¹³ and its rule was approved on February 12th 1991.¹¹⁴ The law identifies two categories of peasant community members: First, a comunero is a person born in a peasant community or a comunero's child who can participate in the communal assembly but does not have the right to vote its decisions. Second, a qualified community member, known as qualified comunero, is a category approved by the General Communal Assembly that gives the comunero the right to participate and vote in the communal assembly, and be part of the community leaders.

This law specifies the steps to formalise the registration of a peasant community as a legal entity in the regional government. There has to be a minimum of 50 qualified community members acknowledged in an official registry.¹¹⁵ In addition, the law identifies the rights and duties of community leaders, comuneros and qualified comuneros centred on the development of the community.

Regarding the development of partnerships, one of the duties of a qualified community member is the setting up of communal or multi-communal enterprises for community development.¹¹⁶ Consequently, CSR initiatives should take into consideration this form of communal organisation as it

¹¹³ Ley General de Comunidades Campesinas 1987.

¹¹⁴ Reglamento de la Ley General de Comunidades Campesinas 1991.

¹¹⁵ Article 40 of the 'Reglamento de Ley General de Comunidades Campesinas'

¹¹⁶ Article 28, section g, of the 'Reglamento de Ley General de Comunidades Campesinas'

empowers comuneros to drive their own development by improving their entrepreneurial skills and their economic activities.

This law challenges the development of long-term partnerships with mining companies is that the community leaders are elected every two years;¹¹⁷ consequently, the new group of leaders may want short-term deals with mining companies, or their views may be against their predecessors. This situation can create disputes and can lead to social conflicts.

2.3.5. 'Work for Taxes' Law

The 'Law that promotes regional and local public investment with private sector participation' No 29230, known as the 'Work for Taxes' law was published in May 2008.¹¹⁸ This has become a new and revolutionary financial scheme in Latin America,¹¹⁹ through the development of public-private partnerships aimed at accelerating the execution of Public Investment Projects (PIPs)¹²⁰ in areas of health, education, tourism, agriculture and irrigation, public order and security, culture, sanitation, sports and the environment, including their maintenance.¹²¹

The Work for Taxes law provides a space for the development of a partnership between different levels of government (local, regional central), civil society, and private companies to which each of them complies with a specific role in the identification, selection and execution of PIPs. For example, a private company or a consortium of companies participate as bidders in accordance with the State Procurement Law to fund the

¹¹⁷ Article 80 of the 'Reglamento de Ley General de Comunidades Campesinas'

¹¹⁸ Ministerio de Economía y Finanzas, 'Ley N° 29230 Obras Por Impuestos' (2014).

¹¹⁹ Rosa Ana Balcázar, 'Obras Por Impuestos Made in Peru: El Poder de Los Tributos Sobre La Inversión Pública y La Reputación' (2014) <http://www.desarrollando-ideas.com/publico/140915_dmasi_Informe_especial_Obras_por_Impuestos_Made_in_Peru.pdf> accessed 28 December 2015.

¹²⁰ Grupo Propuesta Ciudadana, 'Obras Por Impuestos: Posibilidades y Riesgos' (2015) <http://www.propuestaciudadana.org.pe/sites/default/files/publicaciones/archivos/Cartilla_Oxl.pdf> accessed 14 December 2015.

¹²¹ Decreto Legislativo N° 1238 2015 562306.

construction of PIPs and in exchange,¹²² they obtain a reduction in income tax and receive the 'Regional and Local Public Investment - Treasury Certificate (CIPRL) that confirms the payment. The government funds the PIPs from taxes related to mining, which include the Canon, Sobrecanon, and Royalties Customs, or from other funds in cases where the region does not hold mining projects.

A prioritised list of PIPs is proposed by public entities, including regional and local governments, public universities, municipal and regional authorities working together, entities of the National Government, or by a private company.¹²³ When a PIP is proposed by a public entity, it leads to more participation from local communities in its identification and meaning in relation to the social responsibility of companies.

Since the implementation of the law, the total amount invested in Peru and in Ancash region has fluctuated due to the lack of knowledge of its application and scepticism about its appropriate application; demonstrated in the case of Southern Peru mining company that used this legal tool to build an infrastructure project in the region,¹²⁴ however when the government delayed the issuing of the CIPRL discouraged other companies to use this legal tool. Nevertheless, the investment in 2019 had increased in comparison to 2009,¹²⁵ as seen in Figure 2.6.

¹²² Reglamento de la Ley N° 29230, Ley que impulsa la inversión pública regional y local con participación del sector privado, y del artículo 17 de la Ley N° 30264, Ley que establece medidas para promover el crecimiento económico 2015 569990.

¹²³ *ibid.*

¹²⁴ La República, 'Southern Evalúa No Seguir Con "Obras Por Impuestos"' *La República* (Lima, 13 January 2016) <<http://larepublica.pe/impres/sociedad/733246-southern-evalua-no-seguir-con-obras-por-impuestos>> accessed 15 September 2019.

¹²⁵ ProInversion, 'Ranking de Departamentos Por Monto de Inversión En Obras Por Impuestos 2009 - 2020 (Millones de Soles)' (*Ranking de Obras por Impuestos 2009 - 2020*, 2020) <<http://www.obrasporimpuestos.pe/0/0/modulos/JER/PlantillaStandard.aspx?are=0&prf=0&jer=188&sec=0>> accessed 8 March 2020.

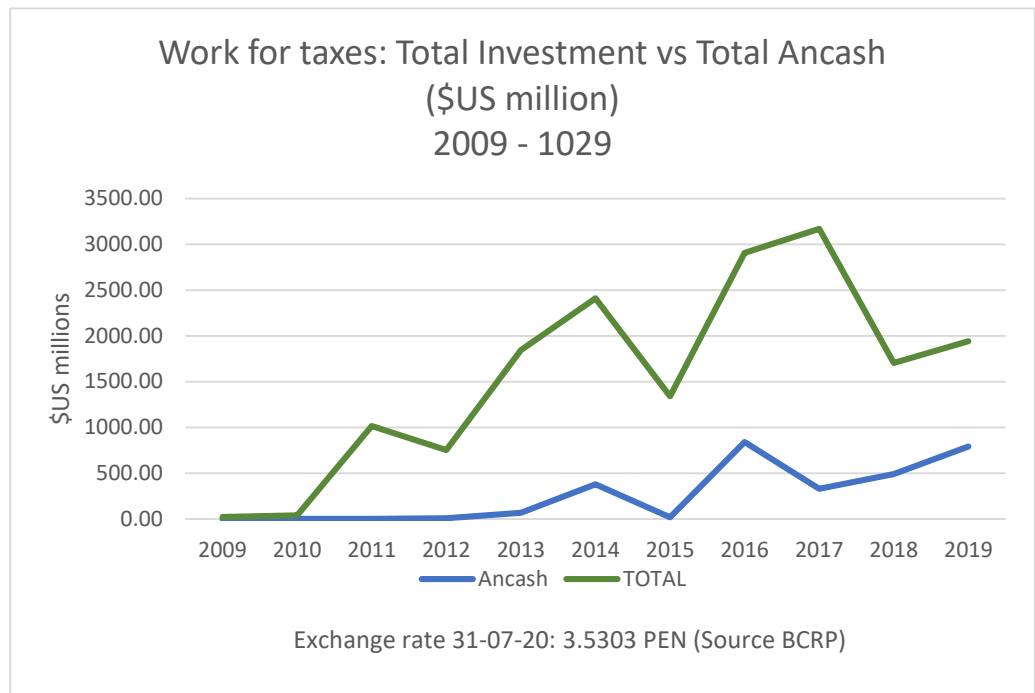


Figure 2.6: Work for Taxes – Total Investment vs Total for Ancash (\$US million) from 2009 - 2019

Since their rolling out in 2009, the mining sector has been the most active industry, with the highest investment in PIPs (\$US 7,560 million). Other sectors contributing large amounts are include financial (\$US 5,158 million), and commerce (\$US 1,348 million), as can be seen in table 2.7.¹²⁶

¹²⁶ ProInversion, 'Ranking de Empresas Por Monto de Inversión En Obras Por Impuestos 2009 - 2020 (Millones de Soles)' (*Ranking de Obras por Impuestos 2009 - 2020*, 2020) <<http://www.obrasporimpuestos.pe/0/0/modulos/JER/PlantillaStandard.aspx?are=0&prf=0&jer=188&sec=0>> accessed 8 March 2020.

Table 2.7: Work for taxes - Total investment (\$US millions) from 2009 to 2019

Work for taxes: Total investment (\$US millions) 2009 to 2019	
Industry	(\$US millions)
Mining	7560.59
Financial	5158.12
Commerce	1348.42
Construction	1002.83
Telecommunications	878.07
Brewery	387.66
Transport	269.42
Electricity	227.27
Food	157.19
Oil & gas	80.51
Fishing	76.06
TOTAL	17146.16

In 2018 and 2019, Ancash was the region with the highest investment amounting to \$US 491.40 million and \$US 790.03 million, respectively. Of the total investment received in 2019 in Peru, Ancash represented 40.67%; Moquegua 16.14%; and Tacna 12.77%,¹²⁷ which demonstrates that mining companies in rich, mineral-resource regions, such as these three use this legal tool quite extensively.

This law has been a good approach to improving the efficiency in the delivery of public projects; however, local and regional public administrations face some challenges, including tax collection, tax evasion, bureaucratic obstacles in the delivery of CIPRL, corruption,¹²⁸ lack of

¹²⁷ ProInversion, 'Ranking de Departamentos Por Monto de Inversión En Obras Por Impuestos 2009 - 2020 (Millones de Soles)' (n 125).

¹²⁸ Laura Zúñiga, 'Vacíos En La Legislación de Obras Por Impuestos a Partir de Su Aplicación Práctica' [2014] Themis 293 <<http://revistas.pucp.edu.pe/index.php/themis/article/viewFile/10875/11380>> accessed 8 January 2016.

training in the use of this initiative,¹²⁹ and limited citizen consultation.¹³⁰ Moreover, giving more responsibility to private companies to carry out public investment projects can weaken the public management of the local and regional governments.¹³¹

2.3.6. Public Private Associations

The Peruvian government promotes laws to develop bilateral partnerships with the private industry relating to public procurement, public services and public infrastructure. One of these is the Public – Private Associations Law enacted on May 13th, 2008,¹³² which has since been subject to several modifications. The latest one is the Legislative Decree No 1363 that mandates that these partnerships take the form either of concession contracts or joint ventures between both parties that last for up to 60 years.¹³³ These partnerships engage in the development of public infrastructure, public services, research and innovative technology projects. The government bodies at different levels are responsible for the identification of these projects and there is no provision for participation of groups from the civil society, as in the case of the Work for Taxes Law and therefore, the needs of peasant communities are often not taken into account. Whilst the private company is responsible for the design, construction and investment, the inputted funds are usually only limited in their amount.

In sum, this chapter has provided analysis on how the socio-demographic patterns, economic model and regulatory characteristics of Peru have set the foundations of a systematic form of oppression. The government favours mining investment as a source of economic development to the detriment of native

¹²⁹ Rosa Ana Balcázar, 'Gestión Pública Transparente Con Obras Por Impuestos' (*Llorente & Cuenca*, 2014) <<http://saladecomunicacion.llorenteycuenca.com/areas-de-especialidad/asuntos-publicos/gestion-publica-transparente-con-obras-por-impuestos>> accessed 20 November 2015.

¹³⁰ Grupo Propuesta Ciudadana (n 120).

¹³¹ Jorge Chiroque, 'No Hay Vigilancia Ciudadana En Obras Por Impuestos' *La Republica* (Lima, 19 September 2015) <<http://larepublica.pe/impresa/economia/704387-no-hay-vigilancia-ciudadana-en-obras-por-impuestos>>.

¹³² Aprueba la ley marco de asociaciones público - privadas 2008 (Diario el Peruano).

¹³³ Reglamento del Decreto Legislativo N° 1362, que regula la Promoción de la Inversión Privada mediante Asociaciones Público Privadas y Proyectos en Activos 2018.

people's rights in the Andes, where important mining operations have been developed. There is the perception of deception by people who do not belong to the peasant community that has lasted since colonisation. The negative social impact of mining operations has translated into socio-environmental conflicts, the weakness of the laws aimed at regulating the development of CSR and the lack of development of effective social partnerships, all which have served to support the oppression by the central government.

There is an ecosystem of law that promotes the formation of partnerships between the government, private companies and civil society centred on economic incentives, where the latter are tasked with the development of projects relating to public infrastructure, public services, maintenance, and research. However, there is an ongoing need to involve civil society, such as peasant communities, in the identification of CSR initiatives that take in consideration their traditional forms of practice and organisation.

Chapter Three - Theoretical background and literature review

This chapter reviews the literature on corporate social responsibility (CSR) and its evolving definition across voluntary and compulsory actions in order to understand how distinctive characteristics in the legal, socio-economic and cultural context have contributed in the incorporation of new social obligations in company behaviour. It is under these obligations that the development of community partnerships arises as the current most acceptable corporate governance model in developing countries, such as Peru.

3.1. Definition of Corporate Social Responsibility (CSR)

The discussion about the social responsibility of companies has been gaining increasing importance during the 20th century. The definition of CSR has been evolving and incorporating new concepts, as it has been studied from different disciplines, including sociology, ethics, corporate governance and economics, amongst others. The literature identifies the book 'Social Responsibilities of the Businessman' by Howard R. Bowen (1953) as the first publication on this subject.¹³⁴

The definition of CSR is based on the changing interpretation over time of what constitutes it. The CSR pyramid encapsulates a hierarchy of economic, legal, ethical and discretionary (later termed philanthropic) actions based on the changing expectations of society, which will influence the quality of life of the relevant stakeholders,¹³⁵ who are the groups within a society that have an interest

¹³⁴ Archie B Carroll, 'Three-Dimensional Conceptual Model of Corporate Performance' (*Academy of Management Review*, 1979) 497 <<http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=8210f91f-2149-4dbe-89c4-27e3f10e52b6@sessionmgr198&vid=1&hid=116>> accessed 3 February 2015.

¹³⁵ *ibid*; Archie B Carroll, 'The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders' (1991) 34 *Business Horizons* 39 <<http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=acfe69fe-6271-4b82-96ca-4c938275fec8%40sessionmgr198&vid=1&hid=123>> accessed 19 September 2015; Archie B Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (1999) 38 *Business & Society* 268 <<http://bas.sagepub.com/cgi/doi/10.1177/000765039903800303>>; Ronald Paul Hill and others, 'Corporate Social Responsibility and Socially Responsible Investing: A Global Perspective' (2007) 70 *Journal of Business Ethics* 165.

in, or are affected by, business operations. These changes in the interpretation and expectations of CSR have initiated a debate regarding its characteristics. The effects of some of these are discussed in the following sections.

3.2. Compulsory or voluntary CSR

Since the 1930s there have been debates as to whether or not businesses should engage in social responsibility and to what extent CSR initiatives should be compulsory or voluntary. A basic understanding of CSR transmits the notion of legal responsibility or liability,¹³⁶ as determined by law or through a contractual relationship with specific actors. However, legal compliance from companies towards the wider members of society can lead to a conflict of interest amongst those subject to the established law. Moreover, as Dodd argues,¹³⁷ changes in corporate law can require businesses to consider the interests of other groups besides the owner, that if fulfilled, could go against the principles of business optimisation.

Another perspective is that CSR should be engaged in voluntary activities without having to be legally imposed. Regarding which, Manne and Wallich argue that the CSR implies a voluntary corporate behaviour.¹³⁸ This voluntary sense informs the debate regarding the CSR definition varying according to the strong or weak legal framework in developed and developing countries. Bowfield and Frynas argue that,¹³⁹ in countries with a strong legal framework, voluntary initiatives are used as a complementary approach. Whilst in countries with weak corporate regulation, a voluntary approach can encourage companies to develop higher levels of performance in CSR than that required by law. In the case of the European Union (EU), there is a complex approach towards CSR, in that it has established CSR

¹³⁶ Dow Votaw, 'Genius Becomes Rare: A Comment on the Doctrine of Social Responsibility' (1972) 15 California Management Review 25.

¹³⁷ 'Harvard Law Review' (1932) XLV For Whom Are Corporate Managers Trustees? 1145.

¹³⁸ Henry G Manne and Henry Christopher Wallich, *Modern Corporation and Social Responsibility* (1st edn, American Enterprise Institute for Public Policy Research, 1972).

¹³⁹ Michael Blowfield and Jędrzej George Frynas, 'Setting New Agendas: Critical Perspectives on Corporate Social Responsibility in the Developing World.' (2005) 81 International Affairs 499
<<http://tinyurl.com/yfk72vo>> accessed 20 May 2018.

standards for business, whilst also enabling the participation of all economic and social stakeholders in the definition of its objectives.¹⁴⁰

Themes of CSR have been embedded in government regulation, under which companies are obliged to comply with the law, known as 'Hard law', and in codes of conduct standards that companies adopt, which are part of the 'Soft law', for which there is no obligation to comply,¹⁴¹ the 'OECD Guidelines for Multi-National Enterprises'¹⁴² and the 'UN¹⁴³ Principles on Business and Human Rights'¹⁴⁴ being examples of the latter. Gjølborg argues that there is a relationship between CSR and hard and soft law,¹⁴⁵ whereby under certain conditions businesses can encourage stricter social and environmental regulation. The challenge to CSR under 'Hard law' is the use of 'creative compliance',¹⁴⁶ which pertains to the practices based on legal skills being aimed at avoiding legal control, whilst not breaking the law, i.e. looking for loopholes in the law.

3.3. The business case

Another perspective of CSR pertains to its contribution to the maximisation of a company's value, which is known as the business case.¹⁴⁷ This value does not necessarily refer only to profit increasing opportunities, for it also includes the

¹⁴⁰ Aurora Voiculescu, 'Challenges and Innovation in the Legal Discourse' (2011) 6 *Society and Business Review* 278 <<http://www.emeraldinsight.com/doi/abs/10.1108/17465681111171019>> accessed 19 June 2016.

¹⁴¹ Cynthia Crawford Lichtenstein, 'Hard Law v. Soft Law: Unnecessary Dichotomy?' (2001) 35 *International Lawyer (ABA)* 1433.

¹⁴² The Organisation for Economic Co-operation and Development

¹⁴³ United Nations

¹⁴⁴ Ciara Hackett and Luke Moffett, 'Mapping the Public/Private-Law Divide: A Hybrid Approach to Corporate Accountability' [2016] *International Journal of Law in Context* 1 <http://www.journals.cambridge.org/abstract_S1744552316000239> accessed 22 October 2016.

¹⁴⁵ Maria Gjølborg, 'Explaining Regulatory Preferences: CSR, Soft Law, or Hard Law? Insights from a Survey of Nordic Pioneers in CSR' (2011) 13 *Business and Politics* 1469

<<http://www.degruyter.com/view/j/bap.2011.13.2/bap.2011.13.2.1351/bap.2011.13.2.1351.xml>> accessed 16 April 2016.

¹⁴⁶ Doreen McBarnet, 'Corporate Social Responsibility beyond Law, through Law, for Law: The New Corporate Accountability' in Doreen J McBarnet, Aurora Voiculescu and Tom Campbell (eds), *The new corporate accountability: corporate social responsibility and the law* (Cambridge University Press 2009).

¹⁴⁷ C B; Bhattacharya, Daniel; Korschun and Sankar Sen, 'Strengthening Stakeholder-Company Relationships through Mutually Beneficial Corporate Social Responsibility Initiatives' (2009) 85 *Journal of Business Ethics* 257.

following potential benefits: competitive advantage, cost and risk reduction from regulatory scrutiny, better reputation, which fosters legitimacy as well as better recruitment and retention of employees.¹⁴⁸ Quite clearly, firms become the main beneficiary of the business case. Nonetheless, it should be noted that the benefits outlined are not solely in favour of companies, but also, include those of other stakeholders, such as employees, governments, consumers and the community, in general. Whatever the case, companies have shown an increasing interest in CSR, as many studies have shown a positive correlation between social responsibility actions and economic impact.¹⁴⁹

Nonetheless, it is still not clear whether social responsibility leads to increased financial performance or whether better profits lead to more funds being available to devote to CSR activities.¹⁵⁰ Moreover, conflict between shareholders is another effect that the profitability interest in CSR brings. As Barnea and Rubin argue,¹⁵¹ disagreement amongst shareholders occurs when investment in CSR actions reduces a firm's value. Other studies have shown that during periods of low profitability, the expenditure on CSR activities and disclosure of environmental obligations are, indeed, limited.¹⁵²

¹⁴⁸ Elizabeth C Kurucz, Barry A Colbert and David Wheeler, 'The Oxford Handbook of Corporate Social Responsibility' in Andrew Crane and others (eds), *Diversity* (Oxford University Press 2004); Carol Adams and Ambika Zutshi, 'Corporate Social Responsibility: Why Business Should Act Responsibly and Be Accountable' (2004) 14 *Australian Accounting Review* 31; Carol A Adams, Wan-Ying Hill and Clare B Roberts, 'Corporate Social Reporting Practices in Western Europe: Legitimizing Corporate Behaviour?' (1998) 30 *The British Accounting Review* 1; Lee David Parker, 'Polemical Themes in Social Accounting : A Scenario for Standard Setting' in Professor Cheryl Lehman (ed), *Advances in Public Interest Accounting* (1986).

¹⁴⁹ Mike Adams and Philip Hardwick, 'An Analysis of Corporate Donations: United Kingdom Evidence' (1998) 35 *Journal of Management Studies* 641; Hamann, 'Corporate Social Responsibility, Partnerships, and Institutional Change: The Case of Mining Companies in South Africa' (n 17); Sandra A Waddock and Samuel B Graves, 'The Corporate Social Performance- Financial Performance Link' (1997) 18 *Strategic Management Journal* 303; Joshua D Margolis and James P Walsh, 'Misery Loves Companies: Rethinking Social Initiatives by Business' (2003) 48 *Administrative Science Quarterly* 268; RM Roman, S Hayibor and BR Agle, 'The Relationship between Social and Financial Performance' (1999) 38 *Business & Society* 109.

¹⁵⁰ Bhattacharya, Korschun and Sen (n 147); Orlitzky, Schmidt and Rynes (n 38).

¹⁵¹ 'Corporate Social Responsibility as a Conflict Between Shareholders' (2010) 97 *Journal of Business Ethics* 71.

¹⁵² AH Ullman, 'Data in Search of a Theory: A Critical Examination of the Relationships among Social Performance, Social Disclosure, and Economic Performance of US Firms' (1985) 10 *The Academy of Management Review* 540; Robin W Roberts, 'Determinants of Corporate Social Responsibility Disclosure: An Application of Stakeholder Theory' (1992) 17 *Accounting, Organizations and Society* 595

<<http://www.sciencedirect.com/science/article/pii/S036136829290015K>> accessed 26 February 2015.

Despite some studies having identified a positive correlation between CSR and financial performance, others have shown no such relationship or have been inconclusive regarding this,¹⁵³ and still others have demonstrated a negative impact.¹⁵⁴ These varying and contradictory results cause difficulties in drawing any generalisable conclusions.¹⁵⁵

3.4. The contextual definition of CSR

The different understandings of CSR as a hierarchy of economic, legal, ethical and philanthropic actions, whether compulsory or voluntary or as transactional, providing benefits to shareholders and stakeholders, were developed to meet the distinctive idiosyncrasies of developed countries. However, in developing countries, the preference for CSR interpretation changes according to the legal, socio-economic and cultural perspectives on 'social responsibility' held by the various stakeholders, including government, businesses and society. Hence, a unique definition of CSR is not feasible as the distinct cultural characteristics of each country, including history, values and symbolic representation, shape the external and internal environmental characteristics of an industry and consequently, the level of the expectation regarding the firm's social responsibility.

¹⁵³ Abigail McWilliams and Donald Siegel, 'Corporate Social Responsibility and Financial Performance: Correlation or Misspecification?' (2000) 21 *Strategic Management Journal* 603; Kenneth E Aupperle, Archie B Carroll and John D Hatfield, 'An Empirical Examination of the Relationship between Corporate Social Responsibility and Profitability' (1985) 28 *The Academy of Management Journal* 446; Gordon J Alexander and Rogene A Buchholz, 'Corporate Social Responsibility And Stock Market Performance' (1978) 21 *The Academy of Management Journal* 479; Martin Freedman and Bikki Jaggi, 'An Analysis of the Association between Pollution Disclosure and Economic Performance' (1988) 1 *Accounting, Auditing & Accountability Journal* 43 <<http://www.emeraldinsight.com/doi/pdfplus/10.1108/EUM0000000004623>> accessed 8 September 2015.

¹⁵⁴ Peter Wright and Stephen P Ferris, 'Agency Conflict and Corporate Strategy: The Effect of Divestment on Corporate Value' (1997) 18 *Strategic Management Journal* 77 <[http://onlinelibrary.wiley.com/doi/10.1002/\(SICI\)1097-0266\(199701\)18:1%3C77::AID-SMJ810%3E3.0.CO;2-R/epd](http://onlinelibrary.wiley.com/doi/10.1002/(SICI)1097-0266(199701)18:1%3C77::AID-SMJ810%3E3.0.CO;2-R/epd)> accessed 8 April 2015; MB Meznar, D Nigh and CCY Kwok, 'Effect of Announcements of Withdrawal from South Africa on Stockholder Wealth' (1994) 37 *Academy of Management Journal* 1633 <<http://amj.aom.org/cgi/doi/10.2307/256803>> accessed 6 September 2015; Philip Bromiley and Alfred Marcus, 'The Deterrent to Dubious Corporate Behavior: Profitability, Probability, and Safety Recalls' (1989) 10 *Strategic Management Journal* 233; Jj Griffin and Jf Mahon, 'The Corporate Social Performance and Corporate Financial Performance Debate' (1997) 36 *Business and Society* 5.

¹⁵⁵ Ullman (n 152).

3.4.1. Effects of business size

CSR actions are related to the level of funding available and willingness for it to be invested by businesses. Regarding which, a corporation has more economic sources to invest on CSR than a small or medium-sized enterprise (SME). Hence, another discussion pertains to the relationship between CSR and the size of a business. Branco and Rodrigues,¹⁵⁶ and Jo and Harjoto point out that larger firms are more geographically diversified and that they tend to invest as well as being more involved in CSR activities.¹⁵⁷

However, Crane *et al.*¹⁵⁸ disagree with this, contending that even small businesses have produced CSR actions and report that it has been identified as a core area of management regardless of firm size.¹⁵⁹ Whatever the case, independent of size, it has been argued that businesses should be profitable and ethical simultaneously,¹⁶⁰ if the company is to operate effectively.

3.4.2. Higher scrutiny from society

The contextual definition of CSR was shaped by increasing scrutiny from society since the industrial revolution, when profit maximisation that mainly benefited owners/shareholders was the main business driver. However, new views of CSR point out that when businesses engage in CSR initiatives, they need to engage in three levels of responsibility towards stakeholders as follows.¹⁶¹

¹⁵⁶ 'Factors Influencing Social Responsibility Disclosure by Portuguese Companies' (2008) 83 Journal of Business Ethics 685.

¹⁵⁷ 'Corporate Governance and Firm Value: The Impact of Corporate Social Responsibility' (2011) 103 Journal of Business Ethics 351.

¹⁵⁸ *Corporate Social Responsibility : Readings and Cases in a Global Context* (Routledge 2014) <http://explore.bl.uk/primo_library/libweb/action/display.do?frbrVersion=2&tabs=moreTab&ct=display&fn=search&doc=BLL01016181662&indx=1&reclDs=BLL01016181662&reclDxs=0&elementId=0&renderMode=poppedOut&displayMode=full&frbrVersion=2&dscnt=1&scp.scps=scope:> accessed 20 April 2015.

¹⁵⁹ *ibid.*

¹⁶⁰ Archie B Carroll, 'Ethical Challenges for Business in the New Millennium: Corporate Social Responsibility and Models of Management Morality' (2000) 10 Business Ethics Quarterly 33 <<http://web.b.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=8fba702b-8121-4fb1-8b91-e98cd1ad5f91%40sessionmgr114&vid=1&hid=123>> accessed 19 September 2015.

¹⁶¹ Hackett and Moffett (n 144).

1. A primary liability towards shareholders' interests in maximum return on their investment, which involves a contractual relationship.
2. A secondary responsibility towards internal stakeholders, including employees and suppliers, namely, one that it is based on a legally binding relationship; and
3. A tertiary responsibility to external stakeholders that includes local communities, government and the environment, but there is no contractual relationship with them.

Moreover, the scandals in which businesses have been involved, including market collapses, corruption and widening salary gap between executives and employees, have led to increasing scrutiny from society in relation to businesses' environmental, social and ethical practices.¹⁶² Nowadays, the priority regarding the level of responsibility is subject to change due to local law and/or the power of influence of each stakeholder.

This scenario has caught the attention of government regulatory bodies¹⁶³ that have included social and environmental aspects in their legislation.¹⁶⁴ However, in the extractive industry, non-compliance with the environmental regulations, the agreements with local communities, and the occurrence of environmental catastrophes, have led to protests from nearby communities and NGOs. Therefore, the power of influence from stakeholders and not only from shareholders, has caused the inclusion of the former in the maximisation of benefits as part of the CSR definition. Accordingly, Fryzel argues:¹⁶⁵

“it is an approach to management where the enterprise needs to find a balance between the interests of all the stakeholders in a way which not only maximizes the value of the company

¹⁶² Kevin; Money and Herman Schepers, 'Are CSR and Corporate Governance Converging?: A View from Boardroom Directors and Company Secretaries in FTSE100 Companies in the UK' (2007) 33 Journal of General Management 1.

¹⁶³ RL Watts and JL Zimmerman, *Positive Accounting Theory* (Prentice-Hall 1986).

¹⁶⁴ L Preston and J Post, *Private Management and Public Policy* (Prentice Hall 1975).

¹⁶⁵ *Building Stakeholder Relations and Corporate Social Responsibility* (Palgrave Macmillan 2011) 1 <<http://www.palgraveconnect.com/pc/doi/10.1057/9780230308817>> accessed 20 April 2015.

but also contributes to the wellbeing of a society and the generation of common good, including wealth.”

3.4.3. CSR as Corporate Governance (CG)

The pressure from stakeholders and the growing significance of other factors that include national history, culture and institutions¹⁶⁶ have resulted in a strong and intricate connection between CSR and Corporate Governance (CG),¹⁶⁷ the latter being defined by Blair as:

*“the whole set of legal, cultural, and institutional arrangements that determine what publicly traded corporations can do, who controls them, how that control is exercised, and how the risks and returns from the activities they undertake are allocated.”*¹⁶⁸

The connection between both terms is based on corporate behavioural patterns towards two aspects:¹⁶⁹ internal structures that include efficiency, financial structure, and treatment of shareholders and stakeholders; and the regulatory framework that can vary according to each country,¹⁷⁰ which covers the legal system, judicial system, financial markets, and factor markets. There is an inherent assumption that companies with good CG should be more socially and environmental responsible and better corporate citizens than those with poor governance.¹⁷¹ Jo and Harjoto have found evidence that CSR is positively linked with internal and external corporate

¹⁶⁶ Steen Thomsen and Martin Conyon, *Corporate Governance: Mechanisms and Systems* (1st edn, McGraw-Hill Higher Education 2012).

¹⁶⁷ Dima Jamali, Asem M Safieddine and Myriam Rabbath, ‘Corporate Governance and Corporate Social Responsibility Synergies and Interrelationships’ (2008) 16 *Corporate Governance: An International Review* 443; Alexander Dahlsrud, ‘How Corporate Social Responsibility Is Defined: An Analysis of 37 Definitions’ (2008) 15 *Corporate Social Responsibility and Environmental Management* 1 <<http://doi.wiley.com/10.1002/csr.132>> accessed 23 November 2014.

¹⁶⁸ *Ownership and Control: Rethinking Corporate Governance for the Twenty-First Century* (Brookings Institute 1995) 3.

¹⁶⁹ Stijn Claessens, ‘Corporate Governance and Development’ (2003) 34667.

¹⁷⁰ Jill Solomon, *Corporate Governance and Accountability* (4th edn, John Wiley and Sons 2013) <http://library-collections-search.westminster.ac.uk/primo_library/libweb/action/display.do?tabs=detailsTab&ct=display&fn=search&doc=LMS_WST000505130&indx=2&reclds=LMS_WST000505130&recldxs=1&elementId=1&renderMode=popup&displayMode=full&frbrVersion=&fc> accessed 10 April 2015.

¹⁷¹ MuiChing Carina Chan, John Watson and David Woodliff, ‘Corporate Governance Quality and CSR Disclosures’ (2013) 125 *Journal of Business Ethics* 59 <<http://link.springer.com/10.1007/s10551-013-1887-8>> accessed 22 August 2015.

governance and monitoring mechanisms, including codes of conduct; firm policies and audits that monitor the corporate behaviour when dealing with internal stakeholders, such as employees and external ones, such as suppliers and civil society.¹⁷² In practice, good CG has been linked with the disclosure of corporate financial and environmental reporting, which includes CSR or sustainability reports.¹⁷³

Hence, there is need for a holistic understanding of both terms that goes beyond catering for the requirements of a wider cohort of stakeholders and towards a goal of providing some public benefit. Accordingly, the image of business as a social change entity is supported by Blowfield and Frynas,¹⁷⁴ who argue that, due to the faster liberal economic globalisation, CSR is seen as a means of filling gaps in governance, which includes pursuing goals related to poverty alleviation and sustainability,¹⁷⁵ and the participation of non-state actors in the designing of public policy.¹⁷⁶ However, to what extent the alignment between Corporate Governance and CSR should be is far from clear.¹⁷⁷

3.4.4. CSR and culture

The different expectations from societies about what the social responsibility of business is have led to the conclusion that the importance does not reside in the definition of CSR, but rather, in the understanding of how it is socially constructed in a specific context.¹⁷⁸ Hence, a unique

¹⁷² (n 157).

¹⁷³ Chan, Watson and Woodliff (n 171); Kathy Gibson and Gary O'Donovan, 'Corporate Governance and Environmental Reporting: An Australian Study' (2007) 15 *Corporate Governance: An International Review* 944 <<http://doi.wiley.com/10.1111/j.1467-8683.2007.00615.x>> accessed 22 August 2015.

¹⁷⁴ (n 139).

¹⁷⁵ Michael Blowfield, 'Corporate Social Responsibility: Reinventing the Meaning of Development?' (2005) 81 *International Affairs* 515 <<http://www.jstor.org/stable/3569631>> accessed 28 June 2015.

¹⁷⁶ Ronen Shamir, 'Socially Responsible Private Regulation: World-Culture of World-Capitalism' (2011) 45 *Law & Society Review* 313.

¹⁷⁷ Money and Schepers (n 162); Jamali, Safieddine and Rabbath (n 167); Maretno a Harjoto and Hoje Jo, 'Corporate Governance and CSR Nexus' (2011) 100 *Journal of Business Ethics* 45.

¹⁷⁸ Dahlsrud (n 167).

definition of CSR becomes more complex as it is strongly influenced by legal, social-economic and cultural factors in the country of study.¹⁷⁹

Critically, most of the CSR literature comes from western research based on the socially constructed interpretation that CSR is more than philanthropic actions from business and is more orientated towards corporate ethical behaviour. Hackett and Moffett argue that CSR was originally designed as a self-regulation strategy to obtain legitimacy and, to an extent, to avoid rigorous state regulation.¹⁸⁰ This interpretation differs with the reality in developing countries in which businesses are seen as socially conscious entities that bring positive social change to society.¹⁸¹ In sum, in a developing country like Peru there is no clear division as to where the corporate responsibility ends, or government responsibility starts.

3.4.4.1. CSR in developing countries

Developing countries are characterised by weak regulatory and governance models in which the definition and practice of CSR has been incorporating governance capabilities orientated towards improving public infrastructure and developing philanthropic activities that address the urgent needs of the local population, as a way to make a positive social contribution. Desta argues that CSR standards and guidelines in developing countries tend to be issue-specific, for example, addressing HIV, AIDS and poverty, or sector-led, such as, agriculture or mining.¹⁸² Moreover, scandals involving contractor firms in environmental impact and labour conditions in developing countries have resulted in the use of soft law being imposed by the transnational

¹⁷⁹ Donald C Clarke, “‘Nothing but Wind’? The Past and Future of Comparative Corporate Governance’ (2011) 59 *American Journal of Comparative Law* 75; Diana C Robertson, ‘Corporate Social Responsibility and Different Stages of Economic Development: Singapore, Turkey, and Ethiopia’ (2009) 88 *Journal of Business Ethics* 617.

¹⁸⁰ (n 144).

¹⁸¹ Blowfield and Frynas (n 140); Uwafiokun Idemudia, ‘Corporate Social Responsibility and Developing Countries: Moving the Critical CSR Research Agenda in Africa Forward’ (2011) 11 *Progress in Development Studies* 1; Marina Prieto-Carrón and others, ‘Critical Perspectives on CSR and Development: What We Know, What We Don’t Know, and What We Need to Know’ (2006) 82 *Source: International Affairs (Royal Institute of International Affairs)* 977 <<http://www.jstor.org/stable/3874210>> accessed 20 August 2016.

¹⁸² Issac H Desta, ‘CSR in Developing Countries’ in Manfred Pohl and Nick Tolhurst (eds), *Responsible business how to manage a CSR strategy successfully* (John Wiley & Sons 2010).

parent companies in terms of compliance with monitoring and auditing social and environmental practices, with failure to do so meaning any penalties are borne by the contractor firms themselves.¹⁸³

The meaning of CSR varies according to legal, socio-economic and cultural characteristics of each country, including the business size, the scrutiny from stakeholders, and monitoring mechanisms of corporate behaviour. As a consequence, there are new approaches that involve the participation of stakeholders who define the extent of the social responsibility and the scope of CSR investment.

3.5. Partnership as a strategy for CSR

The meaning of the social responsibility is shaped by the evolving legal, socio-economic and cultural structures in developed and developing countries. One example of its evolving characteristics is the shift in the state's role whereby, since the 1950s, it has been the major agent of development, manifested in a high state intervention in industrialisation in order to protect businesses against market forces.¹⁸⁴ However, this model has caused an increase in the operational governance gaps. These are asymmetries in state management created by the incapacity of the bureaucratic and political systems to attend to local socio-economic and political issues.¹⁸⁵

Since the 1980s, this scenario has changed through the neoliberal counter-revolution in economics, which has led to a reduction in state intervention.¹⁸⁶ It is

¹⁸³ Blowfield and Frynas (n 139).

¹⁸⁴ R Birner and H Wittmer, 'Better Public Sector Governance through Partnership with the Private Sector and Civil Society: The Case of Guatemala's Forest Administration' (2006) 72 *International Review of Administrative Sciences* 459.

¹⁸⁵ Ralph Hamann, 'Cross-Sector Social Partnership in Areas of Limited Statehood' in M May Seitanidi and Andrew Crane (eds), *Social partnerships and responsible business : a research handbook* (Routledge 2014); Ralph Hamann and Fleur Boulogne, 'Partnerships and Cross-Sector Collaboration' in Ralph Hamann, Stu Woolman and Courtenay Sprague (eds), *The business of sustainable development in Africa : human rights, partnerships, alternative business models* (United Nations University Press 2008).

¹⁸⁶ James D Wolfensohn and François Bourguignon, 'Development and Poverty Reduction – Looking Back, Looking Ahead, Paper Prepared for the 2004 Meetings of the World Bank and IMF, October' (2004).

argued that this change has encouraged the development of participatory forms of governance in the form of social partnerships that are dynamic relationships between the private company, government and civil society,¹⁸⁷ who have mutually agreed objectives¹⁸⁸ to tackle social problems,¹⁸⁹ such as, social justice, socio-economic inequality and the environmental dimension of sustainability.¹⁹⁰ Similarly, during 1990s, internal aid agencies, such as the World Bank, the Organisation for Economic Cooperation and Development (OECD), started using 'partnership' as a strategic concept to encourage international development.¹⁹¹

Hamann agrees with the evolving definition of CSR and points out that there are three key elements in the change of the social and environmental responsibilities of businesses:¹⁹²

- the lowest level is philanthropy and environmental impact mitigation, by which companies are seen as being against social development;
- the second level is community investment and eco-efficiency, through which businesses provide funding for CSR projects, but there is little trust from the communities; and
- the highest level is social partnerships between companies, government and civil society for social development.

¹⁸⁷ Hamann and Boulogne (n 185).

¹⁸⁸ Michael Warner, 'Building Blocks for Partnerships', *Putting partnerships to work : strategic alliances for development between government, the private sector and civil society* (Greenleaf Publishing, 2004).

¹⁸⁹ Andrew Crane and M May Seitanidi, 'Social Partnerships and Responsible Business What, Why and How?' in M May Seitanidi and Andrew Crane (eds), *Social partnerships and responsible business : a research handbook* (Routledge 2014).

¹⁹⁰ John W Dienhart and Jessica C Ludescher, 'Sustainability, Collaboration, and Governance: A Harbinger of Institutional Change?' (2010) 115 *Business and Society Review* 393 <<http://doi.wiley.com/10.1111/j.1467-8594.2010.00369.x>> accessed 8 May 2016.

¹⁹¹ Amy Barnes and Garrett Wallace Brown, 'The Idea of Partnership within the Millennium Development Goals: Context, Instrumentality and the Normative Demands of Partnership' (2011) 32 *Third World Quarterly* 165 <<https://www.tandfonline.com/doi/abs/10.1080/01436597.2011.543821>> accessed 16 August 2020.

¹⁹² 'Mining Companies' Role in Sustainable Development: The "why" and "How" of Corporate Social Responsibility from a Business Perspective' (2003) 20 *Development Southern Africa* 237 <<http://www.tandfonline.com/doi/abs/10.1080/03768350302957>> accessed 3 May 2015.

As a consequence, more industries have developed social partnerships so that stakeholders can define the extent of the social responsibility of companies. Regarding which, CSR in the extractive industry in developing countries provides similar benefits to those of the business case discussed by Watts,¹⁹³ who highlights how when businesses develop consultation mechanisms with civil society this can appease criticism and protest from stakeholders, such as the local community and NGOs. In addition, social partnerships have facilitated the identification of valued CSR programmes, such as infrastructure projects, educational and health programmes, and environmental monitoring.

However, Arellano-Yanguas and Bernal-Gómez argue that partnerships are not part of CSR best practices, but rather, represent a corporate response to the growing and disruptive power of local communities,¹⁹⁴ and hence, as an ongoing struggle by firms to maintain legitimacy in the eyes of the local population. Social partnerships are seen, in particular by peasant community members, as the means to resolve the historic limited accountability of local government in the provision of public services in the Peruvian Andes, through building community governance capabilities.

Building community governance capabilities involves two forms of training: public administration to local authorities for a better management of funds from the extractive industry; and community empowerment to community leaders that supports the identification, prioritisation and negotiation of community demands that will be transmitted to the local authorities. It is thus concluded that the development of social partnerships under the lens of new institutional theory can provide a clear understanding of CSR in developing countries.

Nonetheless, the effectiveness of these partnerships in the delivery of CSR projects in Peru is limited by a company's financial ability and, critically, trust in the

¹⁹³ Michael J Watts, 'Righteous Oil? Human Rights, the Oil Complex, and Corporate Social Responsibility' (2005) 30 *Annual Review of Environment and Resources* 373
<<http://www.annualreviews.org/doi/abs/10.1146/annurev.energy.30.050504.144456>> accessed 3 May 2015.

¹⁹⁴ Javier Arellano-Yanguas and María del Pilar Bernal-Gómez, 'Partnerships for Development in the Extractive Sector: Protecting Subterranean Interests?' (2017) 19 *Journal of Environmental Policy & Planning* 251.

integrity of the firm by the local community. Hence, despite companies aspiring to the highest level of CSR, trust is a sensitive factor when developing partnerships that needs careful management by the firm.

Furthermore, a key characteristic of CSR implies the development of social partnerships as an effective strategy to attend the scrutiny from society and for that reason, it has received high prioritisation in the industries. To understand how partnerships were embedded in the social responsibility of companies, it is important to review CSR theories.

3.6. CSR theories

Perspectives on CSR by the firm have evolved by considering economic and corporate governance theories in order to cater for wider stakeholder cohorts. In what follows the aim is to analyse the CSR theories that has led to the development of social partnerships.

3.6.1. Theory of the Firm

The economic theory of 'the firm' follows the traditional conceptualisation of a business in that its main purpose is to meet the best interests of the owners,¹⁹⁵ including the maximisation of profits of publicly held firms.¹⁹⁶ This capitalist mind-set, centred on short-term results that favours shareholders, as the primary responsibility in business leads to carrying out business practices at the expense of local communities and environment, which are part of the tertiary liability of business according to Hackett and Moffett.¹⁹⁷ In addition, this capitalist mind-set leads to the compliance only of the compulsory legal framework which reduces the scope of the CSR actions and only benefits the actors who have a legally binding relationship with the company.

¹⁹⁵ Robin Marris, *The Economic Theory of Managerial Capitalism* (1st edn, Macmillan Press 1964).

¹⁹⁶ MC Jensen, 'Takeovers: Their Causes and Consequences' (1988) 2 *Journal of Economic Perspectives* 21.

¹⁹⁷ (n 144).

The importance of the market as a default form of economic exchange, in which the firm maximises the profits has caused some authors to refer to it as the theory of the market.¹⁹⁸ Corporate behaviour based only on market forces that include, increasing profits, reducing costs and stimulating competition, has been responsible for poor working conditions, environmental damage, tax evasion and corruption. It is noted that, according to each country, corporate behaviour can become the 'rules of society' for any company size in order to carry out operations. For this reason, Crew adds that useful insights about the industry, market price and a firm's behaviour could apply from smaller to larger firms.¹⁹⁹

This theory could be seen as complementing the Friedman view that business is an artificial person that does not have any social responsibilities other than the maximisation of profits with respect of law and ethics.²⁰⁰ Hence, CSR initiatives could be understood as actions incompatible with the main purpose of the firms. Friedman further argues that CSR could be seen as a form of investment that will add value to the product during the production process or supply chain, because it will be embedded with CSR attributes and consequently, lead towards a maximisation of profits. Therefore, the theory of the firm brings forth an ethical discussion about the real intentions of companies in developing CSR initiatives.

Notwithstanding the economic benefits promoted by this theory, criticism has been focused on its application under certain market conditions and the notion of owner-centred approach as being responsible for a firm's behaviour. Crew argues that the theory claims to apply to a wide range of company sizes without taking into consideration the complexity of market conditions.²⁰¹ For instance, in the Peruvian extractive industry, social

¹⁹⁸ MC Jensen and W. Meckling, 'Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure' (1976) 3 *Journal of Financial Economics* 305.

¹⁹⁹ Michael Anthony Crew, *Theory of the Firm* (Longman 1975).

²⁰⁰ Milton Friedman, 'The Social Responsibility of Business Is to Increase Its Profits' (*New York Times Magazine*, 13 September 1970) <<http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>> accessed 25 April 2015.

²⁰¹ Crew (n 199).

conflict with the local communities around mining operations has made them highly significant stakeholders, which can exert the power to potentially stop projects with the use of violence. As a consequence, more companies are dramatically changing their socio-environmental practices.

Hawkins adds that the theory of the firm provides valuable predictions about the behaviour of product prices, firms and industries only in perfect competition conditions.²⁰² However, the extractive industry operates in a non-perfect global market, in which external factors, such as financial crises lead to volatile commodity prices. With regard to CSR, the theory of the firm does not take into consideration the impact of stakeholders in providing economic resources, political support and knowledge.²⁰³ Nor does it take into account the effects from public scrutiny and the creation of shared benefits amongst stakeholders. This is because it is centred around profit maximisation for shareholders, with the perspective that social activities are only the responsibility of the government.²⁰⁴

Finally, in regard to the limitations of the theory of the firm, companies are not necessarily managed directly by the owners or shareholders. It is now often the case that executives and managers participate in business decisions as representatives of the owner's interest. Moreover, external factors, such as globalisation, technology, legislation, and public scrutiny regarding a company's environmental impact, have meant that the executives and managers interest could be in conflict with those of the shareholders when managing the firm.²⁰⁵ This is referred to in Agency Theory.

²⁰² CJ Hawkins, *Theory of the Firm* (Macmillan 1973).

²⁰³ William E Halal, 'Corporate Community: A Theory of the Firm Uniting Profitability and Responsibility' (2000) 28 *Strategy & Leadership* 10
<<http://www.emeraldinsight.com/doi/full/10.1108/10878570010341582>> accessed 9 May 2015.

²⁰⁴ Friedman (n 200).

²⁰⁵ Jesús García-de-Madariaga and Fernando Rodríguez-de-Rivera-Cremades, 'Corporate Social Responsibility and the Classical Theory of the Firm: Are Both Theories Irreconcilable?' (2010) 20 *Innovar journal*.

3.6.2. Agency Theory

The importance of the maximisation of the shareholder value has been at the centre of the corporate decision-making process.²⁰⁶ Agency Theory has acknowledged this fact, with its origins deriving from the financial economics literature,²⁰⁷ when, during the 1960s and 1970s, economists explored risk sharing attitudes amongst cooperating groups who had different attitudes towards risk.²⁰⁸ The theory holds that a relationship is created after a contract is signed between ‘the principal’, who is represented by the owner or shareholder of a company and the ‘agent’, represented by rational actors, who can be the board of directors and/or a management structure that works on behalf of the principal.²⁰⁹

In addition, this theory is concerned with resolving two problems that arise after the contract is signed between the parties. First, there is the matter of how the principals can control the behaviour of the agents in order to avoid conflicts of interest between the goals of the two;²¹⁰ and the second, pertains to the difficulties that the principal encounters in verifying the agents’ performance maximises shareholder returns, especially during risky situations and under uncertainty.²¹¹

Jensen and Meckling,²¹² and Fama and Jensen argue that one possible solution for this agency problem is that principals can use incentive

²⁰⁶ Crane, Matten and Spence (n 158).

²⁰⁷ Jensen and Meckling (n 198); Eugene F Fama and Michael C Jensen, ‘Separation of Ownership and Control’ (1983) 26 *Journal of Law & Economics* 301
<<http://heinonline.org/HOL/Page?handle=hein.journals/jlecono26&id=313&div=&collection=journals>> accessed 3 September 2015.

²⁰⁸ Robert Wilson, ‘The Theory of Syndicates’ (1968) 36 *Econometrica* 119
<http://www.jstor.org.ezproxy.westminster.ac.uk/stable/1909607?origin=crossref&&seq=1#page_scan_tab_contents> accessed 3 September 2015.

²⁰⁹ Jensen and Meckling (n 198); Mick Blowfield and Alan Murray, *Corporate Responsibility* (3rd edn, Oxford University Press 2014).

²¹⁰ Crane, Matten and Spence (n 158).

²¹¹ Kathleenm Eisenhardt, ‘Agency Theory: An Assessment and Review’ (1989) 14 *Academy of Management Review* 57; Stephen A Ross, ‘The Economic Theory of Agency: The Principal’s Problem’ (1973) 63 *The American Economic Review* 134
<http://www.jstor.org.ezproxy.westminster.ac.uk/stable/1817064?seq=1#page_scan_tab_contents> accessed 11 October 2015.

²¹² M. C Jensen and Meckling (1976)

compensation systems and control systems,²¹³ such as auditing and budget restrictions, as a way to reward or punish their performance, in order to ensure that agent's interests do not diverge from those of the principals. Monetary compensation is often seen as the best way to incentivise an employee, without considering other sources of motivation.

Under Agency Theory, it is argued that the firm's CSR policy can lead to conflict between shareholders, whereby an over-investment in it can potentially reduce the firm value and thus, not serve the shareholders' interests. In contrast, a positive effect in the relationship between shareholders occurs when investment in CSR generates a greater alignment between corporate and social goals,²¹⁴ which thus promotes the business case of CSR. However, this view is centred on internal stakeholders, being aligned to the Theory of the Firm due to the non-recognition of a social responsibility of the firm, whereby there is no legal obligation to serve non-shareholder interests and thus, the corporation's only responsibility is the maximisation of wealth of the shareholders.²¹⁵ The claims from Agency Theory have brought criticism, including the difficulties of it being the subject of empirical testing. This excessively narrow approach does not necessarily include all stakeholders, in particular, it overlooks the potential exploitation of workers.²¹⁶

3.6.3. Legitimacy Theory

The previous theories showing a shift in social responsibility away from businesses, originally, were mainly centred on shareholder and management team interests. More recently, those of external groups have needed to be taken into consideration as their scrutiny of businesses can deter effective operation or even threaten their very existence. For this reason, companies have sought to implement different actions aimed at

²¹³ Fama and Jensen (n 207).

²¹⁴ Barnea and Rubin (n 151); Friedman (n 200).

²¹⁵ Jensen and Meckling (n 198).

²¹⁶ Charles Perrow, *Complex Organizations: A Critical Essay* (3rd edn, McGraw-Hill Higher Education; 1986).

obtaining the acceptance or approval of all their stakeholders, which is covered by Legitimacy Theory.

Legitimacy theory comes from the term 'organisational legitimacy', which has been studied by different authors such as Dowling and Pfeffer.²¹⁷

Suchman is another key author who defines legitimacy as:

*"a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions."*²¹⁸

From the above definition, organisational legitimacy can be understood as having a dynamic meaning based on society's expectations and perceptions that the behaviour of an entity is within the norms, values and belief of a socially constructed system, one that is affected by the cultural context.²¹⁹ The organisation's actions are evaluated by society,²²⁰ and if it complies with its expectations and perceptions,²²¹ then the organisation is considered to have legitimacy, whereby its operations are perceived as meaningful, predictable and trustworthy.²²² To this end, businesses need to communicate on an ongoing basis with society to demonstrate that they are responsible citizens, thereby obtaining the legitimacy that will guarantee their existence.²²³

This communication between business and society that shows appropriate behaviour by the former has materialised in the disclosure of the

²¹⁷ John Dowling and Jeffrey Pfeffer, 'Organizational Legitimacy: Social Values and Organizational Behavior' (1975) 18 *The Pacific Sociological Review* 122.

²¹⁸ MC Suchman, 'Managing Legitimacy: Strategic and Institutional Approaches.' (1995) 20 *Academy of Management Review* 571, 574.

²¹⁹ Adams, Hill and Roberts (n 148); Brendan O'Dwyer, 'Managerial Perceptions of Corporate Social Disclosure: An Irish Story' (2002) 15 *Accounting, Auditing & Accountability Journal* 406 <<http://www.emeraldinsight.com/doi/full/10.1108/09513570210435898>> accessed 22 August 2015; Suchman (n 218).

²²⁰ Janet Luft Mobus, 'Mandatory Environmental Disclosures in a Legitimacy Theory Context' (2005) 18 *Accounting, Auditing & Accountability Journal* 492.

²²¹ Chan, Watson and Woodliff (n 171); Dowling and Pfeffer (n 217); Preston and Post (n 164).

²²² Suchman (n 218).

²²³ Susanne Arvidsson, 'Communication of Corporate Social Responsibility: A Study of the Views of Management Teams in Large Companies' (2010) 96 *Journal of Business Ethics* 339; Preston and Post (n 164).

environmental and social practices of companies.²²⁴ In particular, as they grow, they gain higher visibility and thus, face higher public scrutiny.²²⁵ This interaction is referred to as the 'social contract' through which firms need to communicate regularly to society²²⁶ in order to prove that they are responsible citizens seeking to comply with society's expectations, values and norms.²²⁷

The social contract between the firm and society could provide different results. In the case where society perceives that the firm is behaving in a legitimate manner, the latter could obtain the resources necessary for its operations, include: raw materials, political approval, patronage,²²⁸ approval for its continuous operations and the protection of its reputation.²²⁹ In contrast, when companies are perceived as actors that are not fulfilling social expectations, a legitimacy gap occurs;²³⁰ and society could threaten the continuity of the social contract.²³¹

Understanding legitimacy as an evolving, unwritten social contract, with acceptance or approval being granted by the local community based on their perceptions and expectations regarding the social behaviour from mining companies is synonymous with the notion of the Social Licence to Operate (SLO).²³² Moreover, the social construct of corporate legitimate behaviour supports a contextual definition of CSR. However, the business

²²⁴ Adams, Hill and Roberts (n 148); Dennis M Patten, 'Intra-Industry Environmental Disclosures in Response to the Alaskan Oil Spill: A Note on Legitimacy Theory' (1992) 17 *Accounting, Organizations and Society* 471 <<http://www.sciencedirect.com/science/article/pii/036136829290042Q>> accessed 22 August 2015.

²²⁵ Denis Cormier and Irene M Gordon, 'An Examination of Social and Environmental Reporting Strategies' (2001) 14 *Accounting, Auditing & Accountability Journal* 587 <<http://www.emeraldinsight.com/doi/full/10.1108/EUM000000006264>> accessed 22 August 2015; Arvidsson (n 223).

²²⁶ Arvidsson (n 223); Preston and Post (n 164).

²²⁷ Chan, Watson and Woodliff (n 171); Dowling and Pfeffer (n 217); Preston and Post (n 164).

²²⁸ Keith Michael Hearit, "'Mistakes Were Made": Organizations, Apologia, and Crises of Social Legitimacy' (1995) 46 *Communication Studies* 1.

²²⁹ Reggy Hooghiemstra, 'Corporate Communication and Impression Management – New Perspectives Why Companies Engage in Corporate Social Reporting' (2000) 27 *Journal of Business Ethics* 55 <<http://link.springer.com/article/10.1023/A%3A1006400707757>> accessed 22 August 2015.

²³⁰ Trevor D Wilmshurst and Geoffrey R Frost, 'Corporate Environmental Reporting: A Test of Legitimacy Theory' (2000) 13 *Accounting, Auditing & Accountability Journal* 10 <<http://www.emeraldinsight.com/doi/full/10.1108/09513570010316126>> accessed 22 August 2015.

²³¹ Chan, Watson and Woodliff (n 171).

²³² Franks and others (n 15).

could carry out activities that are against societal expectations, and still maintain legitimacy. For, the key audiences may not be aware of this behaviour and hence,²³³ the business is not perceived as a 'bad citizen'. Nevertheless, with increasing awareness of society in recent decades, businesses have been forced to develop strategies continuously that show their actions are legitimate,²³⁴ such as the disclosure of information regarding their practices.²³⁵

3.6.4. Stakeholder Theory

The previously described CSR theories focus on understanding endogenous components of organisations that include the individual actors and their relationship orientated to provide economic benefits to the organisation. It is noted that stakeholder theory centres its efforts on understanding both the endogenous and exogenous pressures on businesses and the changing expectations towards CSR.²³⁶

Stakeholder theory can be traced back to the work of Freeman and the difference with the aforementioned theories resides in its argument that corporations are not managed only by the shareholders' interest.²³⁷ By way of contrast, there are different groups or stakeholders who have a legitimate interest in the firm. There are differing stakeholder definitions, one of the earliest being provided by Freeman:

²³³ Mobus (n 220).

²³⁴ Chan, Watson and Woodliff (n 171).

²³⁵ Hooghiemstra (n 229); Craig Deegan, 'The Legitimizing Effect of Social and Environmental Disclosure: A Theoretical Foundation' (2002) 15 *Accounting, Auditing & Accountability Journal* 282 <http://www.researchgate.net/publication/235252586_The_Legitimizing_Effect_of_Social_and_Environmental_Disclosure_A_Theoretical_Foundation> accessed 27 July 2015; James Guthrie and Lee D Parker, 'Corporate Social Reporting: A Rebuttal of Legitimacy Theory' (1989) 19 *Accounting and Business Research* 343; C Hardy, I Palmer and N Phillips, 'Discourse as a Strategic Resource' (2000) 53 *Human Relations* 1227 <<http://hum.sagepub.com/content/53/9/1227>> accessed 22 August 2015.

²³⁶ Marta De La Cuesta González and Carmen Valor Martínez, 'Fostering Corporate Social Responsibility Through Public Initiative: From the EU to the Spanish Case' (2004) 55 *Journal of Business Ethics* 275; Jeanne M Logsdon and Donna J Wood, 'Business Citizenship: From Domestic to Global Level of Analysis' (2002) 12 *Business Ethics Quarterly* 155.

²³⁷ R Edward Freeman, *Strategic Management : A Stakeholder Approach* (Cambridge University Press 1984) <http://explore.bl.uk/primo_library/libweb/action/display.do?frbrVersion=2&tabs=moreTab&ct=display&fn=search&doc=BLL01015602401&indx=1&reclId=BLL01015602401&reclDxs=0&elementId=0&renderMode=poppedOut&displayMode=full&frbrVersion=2&dscnt=1&scp.scps=scope%3A>.

“Groups of individuals that can affect, or are affected by, the accomplishment of organizational purpose.”²³⁸

Most stakeholder definitions focus on the individuals, whether inside or outside the organisation, who contribute to profit-generation, thus exhibiting an orientation towards the business case for CSR. Post, Preston and Sachs define stakeholders as:

“individuals and constituencies that contribute, either voluntarily or involuntarily, to its wealth-creating capacity and activities, and who are therefore its potential beneficiaries and/or risk bearers.”²³⁹

Donaldson and Preston agree that the relationship between corporations and stakeholders contributes to the achievement of corporate objectives, which include profitability, growth and stability.²⁴⁰ Corporate decisions are determined by pressure from these groups²⁴¹ for certain actions by the business that will deliver them benefits.²⁴² Noncompliance with stakeholder demands can trigger a reaction from them aimed at disrupting the normal business operations, which can include fines or non-renewal of licences by the government, and a boycott by employees, customers and/or NGOs. In order to guarantee the achievement of the business objectives and survival of the company, it is essential to monitor their relationships with stakeholders and to balance their conflicting claims, whilst ensuring the garnering of support for its business operations from its more important stakeholders.²⁴³ This is agreed by Bhattacharya, Korschun and Sen who argue:

²³⁸ *ibid* 25.

²³⁹ James E Post, Lee E Preston and Sybille Sachs, ‘Managing the Extended Enterprise: The New Stakeholder View’ (2002) 45 *California Management Review* 6, 8.

²⁴⁰ Thomas Donaldson and Lee Preston, ‘The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications’ (1995) 20 *Academy Of Management Review* 65.

²⁴¹ Nicole Darnall, Irene Henriques and Perry Sadorsky, ‘Adopting Proactive Environmental Strategy: The Influence of Stakeholders and Firm Size’ (2010) 47 *Journal of Management Studies* 1072 <<http://doi.wiley.com/10.1111/j.1467-6486.2009.00873.x>> accessed 1 November 2015.

²⁴² Jeffrey Pfeffer and Gerald R Salancik, *The External Control of Organizations: A Resource Dependence Perspective* (9th edn, Stanford University Press 2003).

²⁴³ Max E Clarkson, ‘A Stakeholder Framework for Analyzing and Evaluating Corporate Social Performance’ (1995) 20 *Academy of Management Review* 92; Joyce Van Der Laan Smith, Ajay Adhikari and Rasoul H Tondkar, ‘Exploring Differences in Social Disclosures Internationally: A Stakeholder Perspective’ (2005) 24

*“what constitutes a benefit to one stakeholder may hold little value to another, and in some cases, rewards to one stakeholder may conflict with the interests of another stakeholder.”*²⁴⁴

During the last two decades, with scrutiny from NGOs and community pressure on the environmental impact from business and working conditions, stakeholder definitions have become to include demands that encapsulate some CSR themes such the environmental concerns from business operations and a focus on good practices that goes beyond compliance with the law.²⁴⁵ This shows that the recent understanding of the responsibility of the firms is more than simply generating profits, for it now encapsulates wider concerns.²⁴⁶ Thus, it is argued that society sees firms as entities of social change, thus demanding moral behaviour in their business practices. Many companies have had to take into account these views in order to obtain legitimacy, which has manifested itself, to some extent, in community participation in their business practices.

Freeman includes aspects relating to human rights and accountability, according to the application of two principles in the definition of stakeholders.²⁴⁷ The *principle of corporate rights*, where companies must not infringe the rights of others and *the principle of corporate effect*, which holds that corporations are responsible for the effects of their actions on others. Accordingly, the growing societal and environmental impact from companies' operations has resulted in local and international communities

Journal of Accounting and Public Policy 123

<<http://www.sciencedirect.com/science/article/pii/S0278425404000985>> accessed 8 June 2015.

²⁴⁴ Bhattacharya, Korschun and Sen (n 147) 259.

²⁴⁵ Magali Delmas and Michael W Toffel, 'Stakeholders and Environmental Management Practices: An Institutional Framework' (2004) 13 *Business Strategy and the Environment* 209
<<http://doi.wiley.com/10.1002/bse.409>> accessed 11 October 2015.

²⁴⁶ Gábor Harangozó and Gyula Zilahy, 'Cooperation between Business and Non-Governmental Organizations to Promote Sustainable Development' (2015) 89 *Journal of Cleaner Production* 18
<<http://www.sciencedirect.com/science/article/pii/S0959652614011640>> accessed 1 November 2015.

²⁴⁷ R Edward Freeman, 'A Stakeholder Theory of the Modern Corporation' in W Michael Hoffman and Robert E Frederick (eds), *Business ethics : readings and cases in corporate morality* (Fifth, McGraw-Hill 1995).

expecting companies to be accountable for their actions towards the various stakeholder groups.²⁴⁸

Similarly, accountability in CSR involves alliances with agents that previously were not taking in consideration. The notion of accountability brings forth debates on contractual, formal and informal obligations.²⁴⁹ The moral obligations between the parties,²⁵⁰ and the extent to which this involves not only internal stakeholders, but also, society at large comes into focus.

Understanding that companies are accountable to stakeholders requires the identification and classification of these groups. The literature provides different categorisations of stakeholders based on criteria that include priority and moral obligation.²⁵¹ One categorisation pertains to primary stakeholders, who have a high level of interdependence with the firm, and without whom it would not survive, whilst secondary stakeholders are not engaged in any transactions with the firm and they are not essential for its survival.²⁵²

These different classifications imply that the identification of stakeholders and their level of importance differs from company to company, according to the type of business sector and in relation to the distinctive characteristics of each country, including its relevant socio-economics and politics. Henriques and Sadorsky identify the following broad stakeholder groups, namely, regulatory and organisational groups, community, and the media.²⁵³ Focusing on the two Freeman principles of stakeholders, Delmas

²⁴⁸ Ioannis Ioannou and George Serafeim, 'The Consequences of Mandatory Corporate Sustainability Reporting' (Harvard Business School 2012) <<http://econpapers.repec.org/RePEc:hbs:wpaper:11-100>> accessed 21 August 2015; Solomon (n 170).

²⁴⁹ Rob Gray, Dave Owen and Keith Maunders, *Corporate Social Reporting : Accounting and Accountability* (Prentice-Hall International 1987).

²⁵⁰ Richard C Laughlin, 'A Model of Financial Accountability and the Church of England' (1990) 6 *Financial Accountability and Management* 93.

²⁵¹ Yves Fassin, 'Stakeholder Management, Reciprocity and Stakeholder Responsibility' (2012) 109 *Journal of Business Ethics* 83 <<http://link.springer.com/10.1007/s10551-012-1381-8>> accessed 31 December 2014.

²⁵² Clarkson (n 243).

²⁵³ Henriques and Sadorsky (1999)

and Toffel identify governments, regulators, customers, competitors, community, non-governmental organisations (NGOs) and/or industry associations as among these.²⁵⁴ However, both the above perspectives only identify external stakeholders, thus overlooking the internal ones, including shareholders, employees, and unions.

For the identification of the stakeholders of mining companies in Peru, the model proposed by Mitchell, Agle, and Wood is used,²⁵⁵ which is based on possessing three attributes: “(1) the stakeholder's power to influence the firm, (2) the legitimacy of the stakeholder's relationship with the firm, and (3) the urgency of the stakeholder's claim on the firm”. Accordingly, the following stakeholders that have an influence on companies and their CSR initiatives in the Peruvian extractive industry are identified as follows.

- The Andean peasant community, who live around the mining operations. They have higher priority than other stakeholders as they are the actors who provide legitimacy to operate on their land. They have the power to stop mining operations through protest, if they perceive the mining company does not meet their expectations. Yang and Rivers agree that the community represents a significant driver of CSR practices,²⁵⁶ whilst Greenwood holds that this is one of the most difficult stakeholders to identify as it may be composed of several different groups.²⁵⁷
- Government bodies who are responsible for promoting mining investment, licence approval, Environmental Impact Assessment (EIA); and monitoring of environmental performance. These bodies include central, regional and local governments, including, in particular, the

²⁵⁴ Delmas and Toffel (n 245).

²⁵⁵ Ronald K Mitchell, Bradley R Agle and Donna J Wood, ‘Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts’ (1997) 22 *The Academy of Management Review* 853.

²⁵⁶ Xiaohua Yang and Cheryl Rivers, ‘Antecedents of CSR Practices in MNCs’ Subsidiaries: A Stakeholder and Institutional Perspective’ (2009) 86 *Journal of Business Ethics* 155.

²⁵⁷ Michelle R Greenwood, ‘Community as a Stakeholder: Focusing on Corporate Social and Environmental Reporting’ (2001) 4 *Journal of Corporate Citizenship* 31 <<http://www.greenleaf-publishing.com/productdetail.kmod?productid=174>> accessed 29 August 2015.

Ministry of Energy and Mines, Ministry of the Environment, and the Agency for Environmental Assessment and Enforcement (OEFA).

- Third parties including non-governmental organisations (NGOs) and consultancies that are responsible for the development and execution of CSR programmes,²⁵⁸ and/or providing an advisory role in relation to protecting peasant communities' human rights and socio-economic interests. Intergovernmental organisations (IGOs) have developed soft law relating to CSR at industry, national and international levels. Examples of which being the United Nations (UN) and the Organisation for Economic Cooperation and Development (OECD). In addition, the Catholic Church performs a pastoral role regarding the protection of community rights, and during times of conflict it performs the role as mediator between the mining company and peasant communities.
- Employees and unions who support social responsibility aspects relating to occupational safety, equal opportunities and job security,²⁵⁹ thereby promoting the formation of an organisational environment for CSR.²⁶⁰ The priority of these groups varies according to the distinctive characteristics of each society, as suggested by Yang and Rivers,²⁶¹ who found that workers' expectations about their employers are generally low in emerging economies.
- Industry bodies or associations establish codes of conduct in the industry that complement the regulatory framework, thus representing a form of peer-pressure.²⁶² Examples of these are, Chambers of

²⁵⁸ Yang and Rivers (n 256).

²⁵⁹ Johan J Graafland, SCW Eijffinger and H Smid, 'Benchmarking of Corporate Social Responsibility: Methodological Problems and Robustness' (2004) 152 *Journal of Business Ethics* 137; Abigail McWilliams and Donald Siegel, 'Corporate Social Responsibility : A Theory of the Firm Perspective' (*Academy of Management Journal*, 2001) 117 <<http://www.jstor.org/stable/pdf/259398.pdf?acceptTC=true>> accessed 8 April 2015.

²⁶⁰ Ruth V. Aguilera and others, 'Putting the S Back in Corporate Social Responsibility: A Multilevel Theory of Social Change in Organizations' (2007) 32 *Academy of Management Review* 836.

²⁶¹ (n 256).

²⁶² Michael J Lenox and Jennifer Nash, 'Industry Self-Regulation and Adverse Selection: A Comparison across Four Trade Association Programs' (2003) 12 *Business Strategy and the Environment* 343.

Commerce, the World Business Council for Sustainable Development, and the World Economic Forum. However, the pressure regarding CSR by such industry bodies is limited due to there being voluntary compliance. Moreover, these frameworks fail to take into account the accepted norms of behaviour/codes of conduct in a particular country.

Despite Lock et al.²⁶³ arguing that there is no dominant theoretical approach to CSR, the stakeholder theory is one of the most relevant theories, as it takes into consideration the identification and impact of individual actors or groups in the firm's goals that include profitability and growth. However, the emphasis on these goals means this lens does not consider balance between social and economic needs.²⁶⁴ The theoretical approach to CSR should go beyond the simple identification and categorisation of stakeholders based on their level of influence on company's decisions. It should involve the understanding of the legal, socio-economic and cultural aspects where the company operates as this will facilitate a deeper understanding of stakeholder behaviour. Moreover, it should examine the relationship between the stakeholders and their perspectives on CSR. Hence, in order to develop a holistic theoretical framework on CSR in a developing country, the stakeholder theory requires complementing with another approach.

3.6.5. Institutional Theory

Previous CSR theories centred on the influence of individual actors that determines organisational behaviour towards social responsibility, highlighting the stakeholder approach as the most influential one. However, the legal, socio-economic, and cultural environment, where companies and stakeholders operate, shapes the development of society's rules, the meaning of CSR and priority of stakeholders and consequently, the companies' behaviour. Scott and Davis add that in this global economy the forces from institutions and not just the market influence corporate

²⁶³ Lockett et al., (2006)

²⁶⁴ Margolis and Walsh (n 149).

responses to stakeholder expectations.²⁶⁵ However, these institutional pressures can be contradictory and therefore, companies need to decide to what extent they should comply with the society's rules in order to survive.

According to Sandhu,²⁶⁶ since late 1980s the institutional thought received more interest from different academic fields being the most notable ones the economic and sociological stances; and therefore, this new school of thought was named New Institutional theory.

The new institutional theory provides a novel lens to understanding CSR in a developing country, as it goes beyond the identification of external environment factors and stakeholders that impact on corporate behaviour. It allows for understanding how the 'rules of society' determine the company response to stakeholders' expectations. The link between CSR and institutional theory centres on two aspects. First, there are the macro-institutional pressures, which include the stakeholders' scrutiny and financial incentives regarding projects that follow CSR practices provided by international organisations, such as the World Bank, that shape the level of corporate engagement in CSR. Second, there is the level of institutionalisation of CSR practices, whereby if these are seen as legitimate behaviour, then they are likely to become embedded in the country legislation, corporate governance mechanisms and to serve the interest of public opinion in relation to CSR matters.²⁶⁷

Similar to CSR, there are different definitions of institutions that vary according to their discipline, including economics, political science, and psychology and organisation perspectives, among others. An early definition of institutions refers to them as rational myths, rules and beliefs that that organisations follow to obtain legitimacy, resources, stability and

²⁶⁵ *Organizations and Organizing : Rational, Natural, and Open System Perspectives* (Internatio, Pearson Prentice Hall 2007).

²⁶⁶ Swaran Sandhu, 'Strategic Communication: An Institutional Perspective' (2009) 3 *International Journal of Strategic Communication* 72.

²⁶⁷ Krista Bondy, Jeremy Moon and Dirk Matten, 'An Institution of Corporate Social Responsibility (CSR) in Multi-National Corporations (MNCs): Form and Implications' (2012) 111 *Journal of Business Ethics* 281.

survival.²⁶⁸ It is important to note that there is a differentiation between an institution and an organisation provided by Almond,²⁶⁹ who argues that an institution pertains to a broader societal area that includes the norms of society and the symbolic representation of reality, with an organisation having to comply with these norms of behaviour, if it wants to obtain legitimacy. Meanwhile, organisations, such as companies, governmental agencies and groups within civil society, develop rules, beliefs and expectations that are shaped by the regulatory structures, laws, and public opinion that define legitimate corporate behaviour.²⁷⁰ Jepperson holds that institutions represent socially constructed expectations about the collective environment and activity that become the 'taken-for-granted' rationale.²⁷¹

3.6.5.1. Economic institutionalism

North is one of the most notable authors who studied institutions in economic systems.²⁷² According to economic institutionalism, where the transaction cost is at the centre of study, institutions emerge when they provide and maintain greater benefits than cost.²⁷³ It is likely during social conflict, that higher transaction costs and lower profits will be the outcome of acting to resolve such conflict, thereby hindering the formation of institutions. In evidence of this, regarding the mining sector in Peru, the development of CSR programmes relating to health, education and nutrition proposed during the negotiations between peasant communities and mining companies aimed at avoiding conflict, can be seen as involving high transaction costs and hence, a reduction in profits. Given the high economic investment of these programmes,

²⁶⁸ John W Meyer and Brian Rowan, 'Institutionalized Organizations : Formal Structure as Myth and Ceremony' (1977) 83 *American Journal of Sociology* 340; Peter L Berger and Thomas Luckmann, *The Social Construction of Reality : A Treatise in the Sociology of Knowledge* (Penguin 1991).

²⁶⁹ 'The "Acts" of Paul: Micro-Processes and New Institution Creation' (2015) 12 *Journal of Management, Spirituality & Religion* 186 <<http://www.tandfonline.com/doi/full/10.1080/14766086.2014.965784>> accessed 13 May 2016.

²⁷⁰ W Richard Scott, 'The Adolescence of Institutional Theory' (1987) 32 *Administrative Science Quarterly* 493.

²⁷¹ 'Institutions, Institutional Effects, and Institutionalism' in William W Powell and Paul DiMaggio (eds), *The new institutionalism in organizational analysis* (University of Chicago Press 1991).

²⁷² Sandhu (n 266).

²⁷³ Walter W Powell and Paul DiMaggio, 'Introduction' in Walter W Powell and Paul DiMaggio (eds), *The new institutionalism in organizational analysis* (University of Chicago Press 1991).

companies tend to decrease CSR investment, which thus jeopardises the creation of institutions.

Additionally, North argues that historical, political and economic factors shape institutions, thus limiting the range of options available to developing economic growth.²⁷⁴ This can be seen in the legal framework developed by the Peruvian government in order to promote mining investment, an industry that significantly contributes to the economic development of the country as seen in chapter two. However, opposition from some peasant communities to some mining projects has led to socio-environmental conflicts and consequently, an ongoing distrust amongst Andean peasant communities towards the government and mining companies. Consequently, history becomes an important aspect in the identification and an analysis of institutions as it allows for understanding of stakeholder relationships and expectations based on past events. Moreover, the analysis of the evolution of economic and legal structures geared towards development can shed light on stakeholder relationships and institutional formation.

3.6.5.2. Sociological institutionalism

Economics and history are not the only disciplines under which institutions have been studied, for the sociological standpoint of new institutionalism has also been explored through organisational studies, with early work being undertaken by John Meyer during the 1970s.²⁷⁵ Sociological institutionalism complements the economic and historical stances as it centres on the cultural and ideational causes underpinning the formation of organisational structures.²⁷⁶ It shifts the analysis from individual organisations to a set of interdependent ones that coexist in a relational space,²⁷⁷ known as an organisational field, comprising:

²⁷⁴ 'Institutions, Transaction Costs and Economic Growth' (1987) 25 *Institutions Transactions Costs and Economic Growth* North, Douglass C *Economic Inquiry* 419.

²⁷⁵ Powell and DiMaggio (n 273).

²⁷⁶ Edwin Amenta and Kelly M Ramsey, 'Institutional Theory' in Kevin T Leicht and J Craig Jenkins (eds), *Handbook of Politics: State and Society in Global Perspective* (Springer 2010).

²⁷⁷ Paul J Dimaggio and others, 'The Iron Cage Revisited : Institutional Isomorphism and Collective Rationality' (1983) 48 *American Sociological Review* 147.

“a community of organizations that partakes of a common meaning system and whose participants interact more frequently and fatefully with one another than with actors outside the field.”²⁷⁸

The sociological standpoint of New Institutionalism is, thus, the theoretical framework deemed suitable for researching the relational features in regard to how the meaning of social reality is developed amongst native and non-native people composed by peasant communities, mining companies, government and third parties in the Peruvian mining industry as an organisational field. This view is supported by Warren,²⁷⁹ who argues that in the organisational field, is where the meaning of organisations’ actions is structured through a network of relationships. Moreover, Meyer and Rowan argue that organisational structures, procedures and practices are shaped under the institutional rules that are classifications based on the interpretations of society.²⁸⁰ Powell and DiMaggio contend that these interpretations are the product of a not conscious design of human activity.²⁸¹

These institutional rules take in consideration the effects of cognition and culture in shaping organisational reality that varies according to each society. However, according to Schneider and Barsoux,²⁸² there is a debate as to whether institutions create culture or *vice-versa*. In this study, culture is an important element in the development of institutions.

3.6.5.3. Institutionalisation

Another important concept is institutionalisation, referring to the process in which habitualised actions, social mechanisms, obligations, and shared cognitions represent a rule-like status in social thought,

²⁷⁸ W Richard Scott, *Institutions and Organizations : Ideas and Interests* (3rd edn, Sage Publications 2008) 86.

²⁷⁹ ‘The Interorganizational Field as a Focus for Investigation’ (1967) 12 *Administrative Science Quarterly* 396.

²⁸⁰ (n 268).

²⁸¹ (n 273).

²⁸² *Managing Across Cultures* (3rd edn, Pearson Education 2014).

establishing a common meaning and a range of possible actions.²⁸³ For example, the growing scrutiny by society towards the environmental and socio-economic impact of mining companies is leading to an increasing number of CSR reporting and consequently, the institutionalisation of CSR in this industry. However, Bondy, Moon and Matten argue that there is no clear evidence as to whether CSR has been institutionalised in companies and for this reason,²⁸⁴ there have been different responses from companies towards this phenomenon. For example, in the Peruvian mining industry, there are different opinions of mining companies, government, peasant communities and third parties towards the scope of social responsibility of these companies.

In contrast, deinstitutionalisation is the process where institutions weaken and disappear due to changing values, rules and beliefs.²⁸⁵ Regarding which, the social impact of mining operations in Andean regions has resulted in the deinstitutionalisation of comuneros' traditional practices and beliefs, such as offerings to the mother land and connection to nature.

3.6.5.4. Institutional logic

The acceptance of legitimate behaviour established during the institutionalisation in an organisational field involves the development of a distinctive institutional logic, defined as:

*"a set of material practices and symbolic constructions which constitutes its organising principles, and which is available to organisations and individuals to elaborate."*²⁸⁶

This logic involves the prioritisation of institutions and shapes social behaviour, with each organisational field establishing its own dominant

²⁸³ Meyer and Rowan (n 268); Lynne G Zucker, 'Research in the Sociology of Organizations' in SB Bacharach (ed), *Research in the sociology of organizations*, vol 2 (JAI Press Inc 1983); Scott, 'The Adolescence of Institutional Theory' (n 270).

²⁸⁴ (n 267).

²⁸⁵ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

²⁸⁶ *ibid* 186.

logic of practice. However, organisations within the same organisational field can develop a different prioritisation of institutions, which leads to a clash of institutional logic and represents an opportunity for institutional change.²⁸⁷ Hence, the different social constructions of CSR between mining companies and peasant communities leads to institutional differences between these stakeholders, with the latter seeing it as compulsory owing to the lack of public services, including health and education, whilst the former prefers a voluntary sense of its interpretation.

Even within the same organisation there can be a clash of institutional logics when they operate in different organisation fields. For example, the individual company expectations and behaviour are institutional processes that can be different or can even clash with subsidiaries when operating in developed and developing countries. However, companies need to accept and comply with these expectations to survive; having legitimacy as potential outcome from institutionalisation.²⁸⁸ These discrepancies in the institutions between an organisation's home country and a foreign host country are known as institutional distance.²⁸⁹

In addition, the institutional logic varies according to the context where the organisational field operates. In Western societies the most influential institutions include the capitalist market, the bureaucratic state, the nuclear family, democracy, and the Christian religion.²⁹⁰ In contrast, native and indigenous populations of the Global South often follow different institutions based on their ancestral practices. Hence,

²⁸⁷ Patricia H Thornton and William Ocasio, 'Institutional Logics' in Royston Greenwood and others (eds), *The SAGE Handbook of Organizational Institutionalism* (SAGE Publications Ltd 2008) <http://sk.sagepub.com/reference/hdbk_orginstitution/n4.xml>; MG Seo and W Creed, 'Institutional Contradictions, Praxis, and Institutional Change: A Dialectical Perspective' (2002) 27 *Academy of Management Review* 222 <<http://amr.aom.org/cgi/doi/10.5465/AMR.2002.6588004>> accessed 3 May 2016.

²⁸⁸ Jepperson (n 271).

²⁸⁹ Tatiana Kostova and Srilata Zaheer, 'Organizational Legitimacy under Conditions of Complexity: The Case of the Multinational Enterprise' (1999) 24 *Academy of Management Review* 64.

²⁹⁰ R Friedland and R. Alford, 'Bringing Society Back in: Symbols, Practices, and Institutional Contradictions' in William W Powell and Paul DiMaggio (eds), *The new institutionalism in organizational analysis* (University of Chicago Press 1991).

having knowledge of the specific context where an organisational field operates can provide a holistic understanding of the unwritten rules of legitimate corporate social behaviour.

3.6.5.5. Isomorphism

When there is a new organisation within the same organisational field or under uncertainty scenarios, it tends to imitate the behaviour of another that has strong legitimacy. This is a constraining process known as isomorphism,²⁹¹ which can lead to organisational homogeneity when organisations follow similar strategic practices.²⁹² This can be seen when new mining companies operate in the Peruvian Andes, whereby they tend to imitate the CSR initiatives and reporting by other companies that have acquired strong legitimacy.

3.6.5.6. Pillars of the institutional order

Regarding the sociological standpoint of New Institutionalism, Scott argues that institutions are composed of a combination of three elements, namely regulative, normative and cultural – cognitive, that provide stability, a different rationale of legitimacy and meaning to social life.²⁹³ These three elements represent the pillars of institutional order and vary in their definitions, instruments and basis of compliance (See table 3.1).²⁹⁴ Additionally, a specific institutional order determines the institutional logic of organisations; however, individuals and organisations interact with different systems of institutional orders, which leads to clashes of their institutional logics.²⁹⁵

When stakeholders share a similar institutional order, it brings a positive outcome, such as legitimacy; however, there are clashes in regard to this order and the outcomes can be detrimental. Orr and Scott agree that

²⁹¹ A Hawley, 'Human Ecology' in David L Sills (ed), *International Encyclopedia of the Social Sciences* (Macmillian Company 1968).

²⁹² Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

²⁹³ *ibid.*

²⁹⁴ Richard Scott, 'Approaching Adulthood: The Maturing of Institutional Theory' (2008) 37 *Theory and Society* 427.

²⁹⁵ Friedland and Alford (n 290).

when multinationals do not understand and do not comply with cognitive-cultural, normative, or regulative institutions in a host country, they incur unforeseen costs.²⁹⁶

Table 3.1: Pillars of Institutional order: adapted from Scott ²⁹⁷; Ramsey, Leonel, Gomes, and Monteiro ²⁹⁸, and Palthe ²⁹⁹

	Regulative	Normative	Cultural - Cognitive
Definition	<ul style="list-style-type: none"> • Rules of society 	<ul style="list-style-type: none"> • Shared conceptions of the preferred / desirable behaviour 	<ul style="list-style-type: none"> • Shared knowledge and understanding
Basis of Compliance	<ul style="list-style-type: none"> • Expedience 	<ul style="list-style-type: none"> • Social Obligation 	<ul style="list-style-type: none"> • Taken-for granted
Basis of order	<ul style="list-style-type: none"> • Regulative rules 	<ul style="list-style-type: none"> • Binding expectations 	<ul style="list-style-type: none"> • Constitutive schema
Basis of legitimacy	<ul style="list-style-type: none"> • Legally sanctioned 	<ul style="list-style-type: none"> • Morally governed 	<ul style="list-style-type: none"> • Culturally supported
Symbolic systems / Indicators	<ul style="list-style-type: none"> • Law • Treaties • Standards • Codes of conduct • Norms of Behaviour 	<ul style="list-style-type: none"> • Values • Belief ³⁰⁰ • Expectations • Assumptions ³⁰¹ 	<ul style="list-style-type: none"> • Symbols • Rituals • Social Identify ³⁰² • Logic of action (cause - effect relation)
Logic	<ul style="list-style-type: none"> • Instrumentality 	<ul style="list-style-type: none"> • Appropriateness 	<ul style="list-style-type: none"> • Orthodoxy

²⁹⁶ 'Institutional Exceptions on Global Projects: A Process Model' (2008) 39 Journal of International Business Studies 562 <<http://link.springer.com/10.1057/palgrave.jibs.8400370>>.

²⁹⁷ *Institutions and Organizations : Ideas and Interests* (n 278).

²⁹⁸ 'Cultural Intelligence's Influence on International Business Travelers' Stress' (2011) 18 Cross Cultural Management 21.

²⁹⁹ 'Regulative, Normative, and Cognitive Elements of Organizations: Implications for Managing Change' (2014) 1 Management and Organizational Studies 59.

³⁰⁰ Ramsey and others (n 298).

³⁰¹ *ibid.*

³⁰² Palthe (n 299).

Regulative elements

Scott argues that regulative elements are expedience responses to determine formal constraints of behaviour and are centred on rule setting, monitoring and legal sanctioning activities.³⁰³ The regulatory elements of institutionalism represent the rule of society, whilst they are more visible than their normative and cultural-cognitive counterparts, they are subject to manipulation in order to avoid compliance.³⁰⁴

The government establishes law, treaties and standards to impose its will on stakeholders that serves as the foundation in the development of corporate policies and procedures, whilst the stakeholders develop their own rules in both explicit and implicit forms, that are in accord with their codes of conduct and norms of behaviour. For example, the mining companies develop codes of conduct, policies and procedures that meet the governmental regulation and, in some cases, these go beyond that level of compliance.

Normative forces

According to Scott,³⁰⁵ normative elements define and promote standards of appropriate behaviour based on moral and ethical systems that determine a social obligation,³⁰⁶ which can involve rewards or punishments in order to influence future behaviour. These normative systems include values, beliefs and expectations.

Scott defines values as the preferred or desirable principles of behaviour that are used to compare and assess current behaviour.³⁰⁷ Meanwhile, a belief is defined as “the feeling of being certain that something exists or is true”,³⁰⁸ and an expectation is understood as “the feeling or belief that

³⁰³ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

³⁰⁴ Peter Evans, ‘Development as Institutional Change: The Pitfalls of Monocropping and the Potentials of Deliberation’ (2004) 38 *Studies in Comparative International Development* 30.

³⁰⁵ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

³⁰⁶ Palthe (n 299).

³⁰⁷ *Institutions and Organizations : Ideas and Interests* (n 278).

³⁰⁸ Cambridge dictionary, ‘Belief’ (*Cambridge Advanced Learner’s Dictionary & Thesaurus*, 2019)

<<https://dictionary.cambridge.org/dictionary/english/belief>> accessed 15 July 2019.

something will or should happen”.³⁰⁹ According to the above definitions, the values set the foundations for the development of beliefs and expectations embedded in each organisation. For this reason, the analysis of normative elements will be centred on values.

In the mining industry, representatives from peasant communities, mining companies and government have their own values that shape their expectations regarding the social responsibility of companies and the rights and duties of each stakeholder in the development of partnerships. The non-compliance of these values causes the loss of moral legitimacy meanwhile complying with the appropriate behaviour dictated by law.

Cultural-Cognitive forces

Scott argues that cultural/cognitive elements of institutionalism pertain to shared conceptions of social reality and a classificatory system, where meaning is interpreted.³¹⁰ These institutional elements recognise that individual, internal processes of interpretation (cognitive) are shaped by external cultural frameworks (culture) represented by socially constructed symbols, such as words, songs and gestures, that shape the meaning of social reality and the logic of social action.³¹¹ Wilkins and Huisman point out that cultural-cognitive elements highlight the importance of social identity, which is defined as the individual's interpretation of who they are and the perceived legitimate behaviour in a specific situation.³¹² Bruton and Ahlstrom argue that the cultural/cognitive elements are the most informal of the three elements of institutionalism.³¹³

³⁰⁹ Cambridge dictionary, 'Expectation' (*Cambridge Advanced Learner's Dictionary & Thesaurus*, 2019) <<https://dictionary.cambridge.org/dictionary/english/expectation?q=expectation>> accessed 15 July 2019.

³¹⁰ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

³¹¹ *ibid.*

³¹² 'The International Branch Campus as Transnational Strategy in Higher Education' (2012) 64 *Higher Education* 627.

³¹³ 'An Institutional View of China's Venture Capital Industry: Explaining the Differences between China and the West' (2003) 18 *Journal of Business Venturing* 233.

Members of peasant communities have a symbolic representation of reality based on their native traditions such as the connection to nature and rituals; and the systemic oppression that they have faced since colonisation. Consequently, understanding and respecting their cultural-cognitive elements will permit a better relationship and the development of sustainable partnerships.

It has been argued that there is an overlap between the cultural-cognitive and the normative elements of institutionalism. Despite this, the latter relate to the collective sense of principles of behaviour, whilst the former refer to the individual perception of social reality.³¹⁴ In this study, it is proposed that the interaction between regulative and normative elements of institutionalism shape the development of cultural-cognitive elements in relation to the following three perspectives:

- Stakeholders: This is pertaining to the stakeholders' role in the understanding of CSR and the development of social partnerships. Those identified in this study include representatives from peasant communities, mining companies, government and third parties (NGOs, international organisations, consultancies, academia).
- Ritual: A ritual is defined as “a set of fixed actions and sometimes words performed regularly, especially as part of a ceremony”.³¹⁵ For example, a protest is a socially constructed ritual against the regulative elements that favour mining companies and do not meet the comuneros' normative elements of institutionalism.
- Artefact: An artefact is “an object that is made by a person, such as a tool or a decoration, especially one that is of historical interest”.³¹⁶

³¹⁴ Friederike Welter, 'Contextualizing Entrepreneurship-Conceptual Challenges and Ways Forward' (2011) 35 *Entrepreneurship Theory and Practice* 165.

³¹⁵ Cambridge dictionary, 'Ritual' (*Cambridge Advanced Learner's Dictionary & Thesaurus*, 20119) <<https://dictionary.cambridge.org/dictionary/english/ritual?q=Ritual>> accessed 15 July 2019.

³¹⁶ Cambridge Dictionary, 'Artefact' (2019) <<https://dictionary.cambridge.org/dictionary/english/artefact>> accessed 8 January 2021.

For example, the meaning of CSR and sacred mountains, which is kept by mining company staff and locals.

Hence, the understanding of the three institutional elements previously defined and applied in the Peruvian Mining industry context defines the social responsibility of companies and the tailored form of work between peasant communities, mining companies and government through social partnerships in the organisational field. Figure 3.1. shows the theoretical framework in this study following the interaction between the regulative, normative and cultural-cognitive elements of the New Institutional theory, which shape the understanding of the compulsory or voluntary sense of CSR leading to the requirement of the formation of social partnerships to develop CSR initiatives in the context of this study.

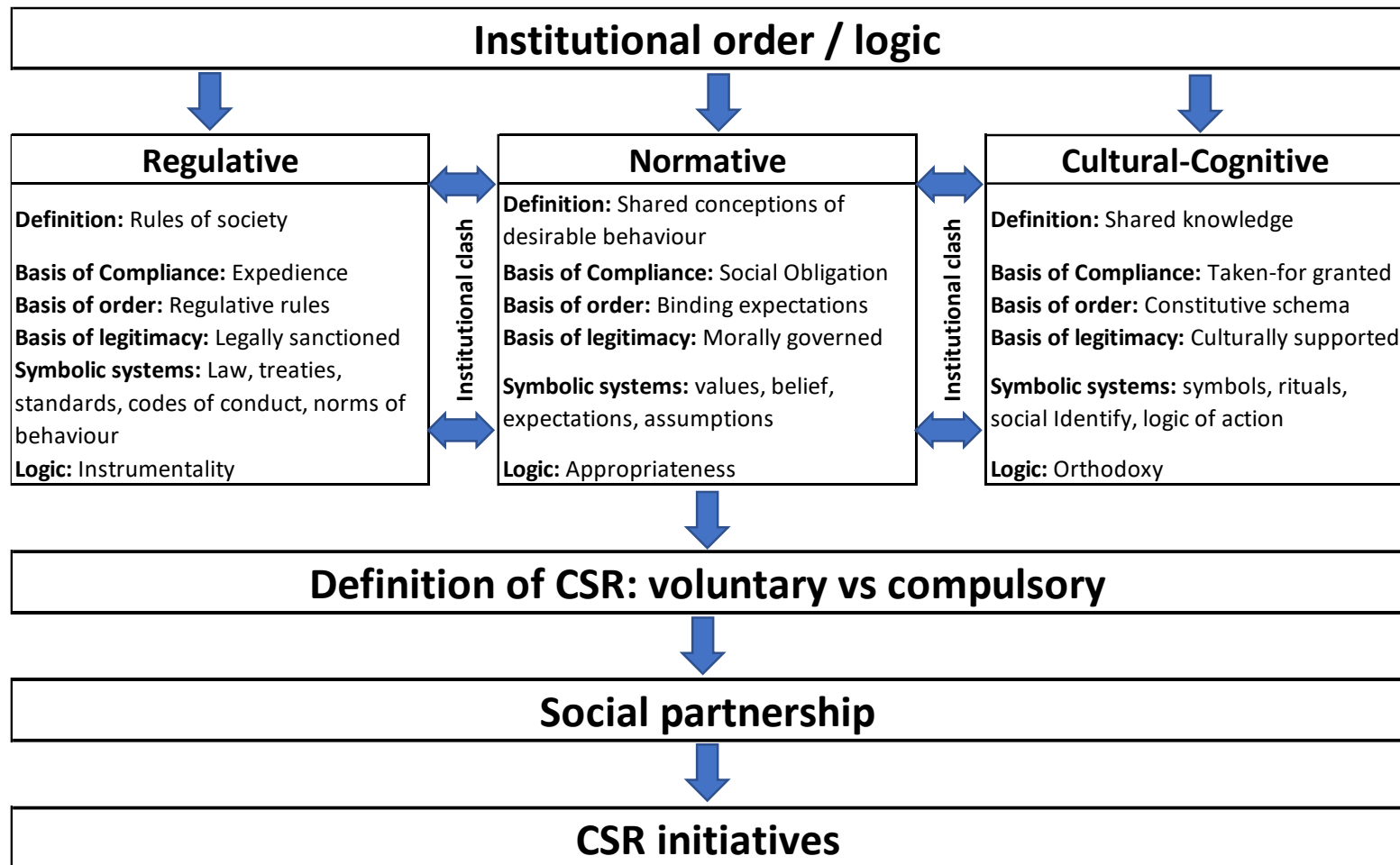


Figure 3.1: Theoretical Framework

To summarise, in this chapter, a theoretical framework for understanding the evolving definition of Corporate Social Responsibility (CSR) has been developed. Early the literature challenged the existence of social responsibility of companies. This then moved on towards the acceptance of corporate social responsibility towards internal stakeholders, such as shareholders and employees, subsequently, acknowledging the impact of external stakeholders, such as civil society.

Previous CSR theories centred on the identification of stakeholders and the analysis of the impact made by companies. New Institutional theory represents a more holistic approach to understanding CSR as it not only identifies the stakeholders, but also, examines the conflicting relationships amongst them based on their contested understanding of the laws, values, and symbolic representation of social reality that, in turn, can legitimate corporate behaviour. Similarly, a distinctive institutional order of the regulative, normative and cultural-cognitive elements of institutionalism shape the stakeholders' institutional logic towards CSR. This is bearing in mind that a clash of these institutional logics can also shape the understanding of CSR and the actions to legitimate corporate behaviour.

Understanding CSR under the lens of New Institutional theory in the Peruvian mining industry facilitates the investigation of social partnerships as a new form of corporate governance that supports the definition of the social responsibility and CSR initiatives. In theory, these social partnerships allow for unprivileged groups, who are directly affected by mining operations, such as peasant communities, to participate in the decision-making process to solve social issues, such as poverty and illiteracy. Therefore, the understanding of institutions and social partnerships, rather the mere analysis of stakeholders, permits the identification and compliance of legitimate behaviour requested by peasant communities and consequently, the development of a harmonious relationship.

Chapter Four - Research design and methodology

This chapter develops and justifies the methodological framework to undertake the study and answer the research questions. This chapter explores the researcher's ontological and epistemological paradigms, explains the study's qualitative multi-methods (qualitative and indigenous methodologies) representing a holistic approach to understand native and non-native people's different interpretations of the socially constructed meaning of CSR and development of partnerships.

4.1. Setting the scene

In this chapter, a methodological framework is developed in order to structure the research process.³¹⁷ The purpose is to guide the investigation of the nature of the social phenomenon of interest, that is, understanding the complexities of CSR and social partnerships, in a context where private companies, native people and other members of the civil society interact.

There is a need for an inclusive methodological framework that establishes the role of the researcher in understanding the distinctive characteristics of each country in terms of law, values and symbols. Suitable methods are employed for capturing the native and non-native people's social realities so as to address the following main research question and sub-questions.

³¹⁷ John Adams and others, *Research Methods for Graduate Business and Social Science Students* (SAGE Publications India Pvt Ltd 2007).

How do the regulative, normative, cultural-cognitive elements of the New Institutional theory impact on the understanding of Corporate Social Responsibility (CSR) in the form of social partnerships in the Peruvian Mining industry?

The sub-questions arising from this main research question are:

- **Q1: How do the regulative elements of the new institutional theory shape the dynamics between comuneros and mining companies?**
- **Q2: How do the normative elements of the new institutional theory shape the dynamics between comuneros and mining companies?**
- **Q3: How do the cultural-cognitive elements of the new institutional theory shape the dynamics between comuneros and mining companies?**

Chapter three explained the three elements of institutional order that shape the understanding of social reality. In order to address the main research question, it is important to understand CSR from global and local perspectives, and for that reason, each sub-question analyses an element of institutionalism.

To address the first sub-question, the following are explored: the impact of an ecosystem of law on the development of social partnerships, the promotion of mining investment, socio-environmental protection as well as challenges posed to public participation in the development of CSR initiatives. The second sub-question involves assessing the understanding of CSR and social partnerships under the lenses of the value dimensions of native and non-native people that dictate the principles of behaviour and thus, lead to tensions in the relationships between comuneros, mining companies, government and third parties. To tackle the third sub-question, the symbolic representation of CSR and social partnerships is evaluated through an analysis of the contribution of each member of the partnership, their rituals and artefacts.

To address these questions, the methodological framework needs to take into consideration how the nature of the phenomenon studied is shaped by the researcher's assumptions regarding the nature of social reality (ontology),³¹⁸ how knowledge can be developed and transferred (epistemology)³¹⁹ and how these assumptions determine the researcher's decisions on the selection of the research choice, strategy, data collection and analysis.

The framework of the research onion,³²⁰ as used in organisational and business studies, provides a robust structure of this chapter as follows (see Figure 4.1).

1. There is explanation of the research philosophical paradigms that underpin the researcher's ontological and epistemological stances.
2. The inductive research and the analysis of participants' perceptions is justified as the most suitable research approach.
3. The selection of the research choice based on multi-methods using qualitative and indigenous methodology described.
4. The case study is identified as the most appropriate research strategy, as it was able to uncover the distinctive characteristics in the relationship between comuneros and mining companies in different peasant communities in the Ancash region.
5. The data analysis resides in the use of template analysis that facilitates the interpretation of the interview transcripts and identification of themes.
6. There is the selection of data collection methods based on primary and secondary instruments, thereby promoting triangulation, which can increase the robustness of the results.

³¹⁸ Saunders, Lewis and Thornhill (n 41)

³¹⁹ Norman Blaikie, *Approaches to Social Enquiry* (2nd edn, Polity 2007).

³²⁰ Saunders, Lewis and Thornhill (n 41)

7. There is evaluation of the quality of the research in terms of its rigour and reflexivity.
8. The ethical considerations when capturing the views of native people regarding the legal, values and symbolic representation of social reality are discussed.

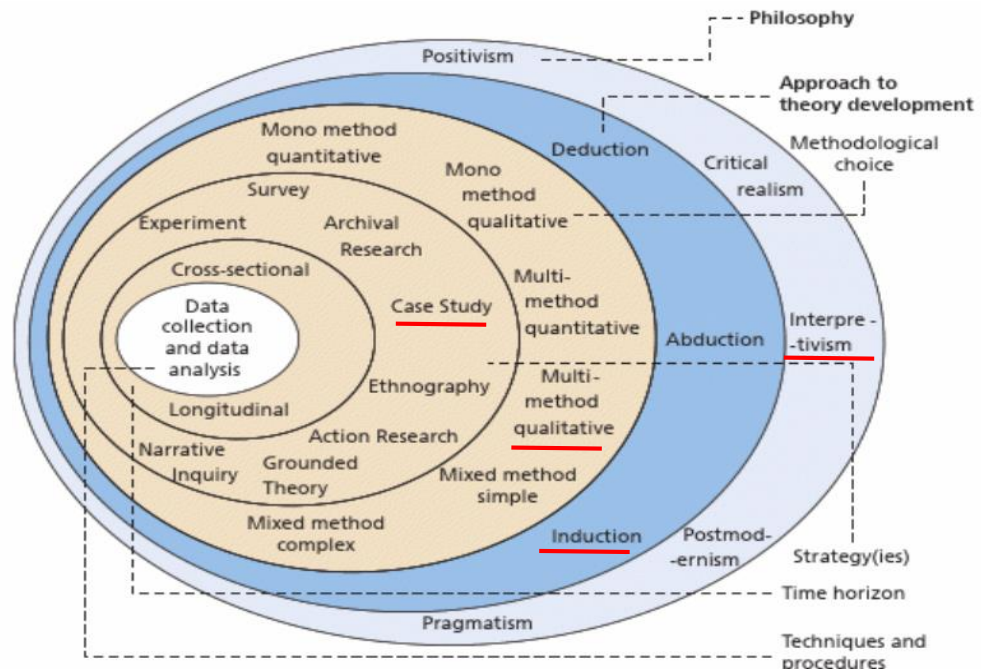


Figure 4.1: Research Onion³²¹

Regarding the dissemination of the main findings of this study, on June 2020, the researcher published: ‘Unwritten Rules’ in Social Partnerships: Defining Corporate Social Responsibility (CSR) through Institutional Theory in the Peruvian Mining Industry,³²² a conference paper in the book *Responsible Business in a Changing World* about his theoretical framework and some early findings. Moreover, the researcher intends to share the main findings of this study by publishing an academic paper centred on the research methodology used when studying native

³²¹ Mark NK Saunders, Philip Lewis and Adrian Thornhill, *Research Methods for Business Students* (8th edn, Pearson 2019) <<https://ebookcentral.proquest.com/lib/westminster/reader.action?docID=5774742>> accessed 26 July 2020.

³²² Gustavo R Espinoza-Ramos, “‘Unwritten Rules’ in Social Partnerships: Defining Corporate Social Responsibility (CSR) Through Institutional Theory in the Peruvian Mining Industry’ (Springer, Cham 2020) <https://link.springer.com/chapter/10.1007/978-3-030-36970-5_14> accessed 16 November 2020.

people; and another that explores how the understanding of the three elements of New Institutionalism supports overcoming the Liability of Foreignness (LOF), which refers to the economic and social costs that a company incurs when operating outside its home country.³²³

4.2. Research philosophical paradigms

When undertaking a study, the researcher holds paradigms reflecting his/her assumptions, concepts, values and basic beliefs.³²⁴ Moreover, the paradigms refer to the nature of the world and how reality is seen, the researcher's place in it, and the relationships between the reality and its constituent parts.³²⁵ Research paradigms shape the philosophical framework for the study of that reality,³²⁶ which varies depending on the branches of sciences studied. The researcher determines his/her ontological and epistemological position in order to address the research questions.

The selection of the research methodology depends on the nature of the phenomenon being studied.³²⁷ In this case, this is the understanding of CSR and the development of social partnerships between Andean people, mining companies and government. Accordingly, the methodology to be adopted requires taking in consideration two realities. First, the meaning of CSR is socially constructed by each group of stakeholders and constrained by distinctive regulative, normative and cultural-cognitive structures that exist in the mining industry. Secondly, there needs to be appreciation of stakeholder groups that include native and non-native people's voices in the understanding of CSR.

³²³ Srilata Zaheer, 'Overcoming the Liability of Foreignness' (1995) 38 *Academy of Management Journal* 341.

³²⁴ Sue LT McGregor and Jennifer A Murnane, 'Paradigm, Methodology and Method: Intellectual Integrity in Consumer Scholarship' (2010) 34 *International Journal of Consumer Studies* 419
<<http://doi.wiley.com/10.1111/j.1470-6431.2010.00883.x>> accessed 28 March 2016.

³²⁵ EG Guba and YS Lincoln, 'Competing Paradigms in Qualitative Research', *Handbook of qualitative research* (Sage Publications 1994).

³²⁶ Alan Clarke and Ruth Dawson, *Evaluation Research an Introduction to Principles, Methods, and Practice* (Sage Publications 1999).

³²⁷ Cyril Tomkins and others, 'The Everyday Accountant and Researching His Reality' (1983) 8 *Accounting, Organizations and Society* 361.

Smith argues that western research methodologies used in indigenous studies do not consider the indigenous ways of knowledge, making the assumption that the researcher is an outsider observer that has not been implicated with the scene.³²⁸ Hence, the methodology and research design adopted needs to be one that can study critically and ethically the ways native communities build knowledge and understand their issues by taking in consideration their context and culture and the fact that the researcher can also be an insider regarding this context.

4.1.1. Ontological assumptions

Ontology refers to the nature of reality, the structure and relationship between objects, properties, events and processes³²⁹ that determine the social reality, social phenomenon and its actors.³³⁰ The ontological assumptions of this study on CSR in a developing country acknowledge the conflicting interpretations of social responsibility and development due to a historic clash of legal and socio-economic structures that guide the principles of behaviour of two distinctive groups: the non-native and native peoples.

Regarding the social reality of the Ancash region, most of the peasant community members are descendants of native people and follow ancestral practices,³³¹ with Quechua as the mother tongue and Spanish as a second language. They adhere to a participatory social organisation that seeks the common good of development.³³² In contrast, representatives of mining companies and the central government tend to speak only Spanish and follow a western way of development centred on an individualist approach that favours economic development.³³³ Consequently, these different

³²⁸ Smith (n 41).

³²⁹ Barry Smith, 'Ontology' in Luciano Floridi (ed), *Blackwell Guide to the Philosophy of Computing and Information* (Wiley-Blackwell 2003).

³³⁰ Matthews and Ross (n 39).

³³¹ María Isabel Remy, *Historia de Las Comunidades Indígenas y Campesinas Del Perú* (Instituto de Estudios Peruanos 2013) <http://www.iep.org.pe/biblioteca_virtual.html> accessed 13 May 2017.

³³² Jürgen Golte and Marisol De la Cadena, *La Codeterminación de La Organización Social Andina* (Instituto de Estudios Peruanos (IEP) 1986).

³³³ 'Individualistic Practices and Values Increasing Around the World – Association for Psychological Science – APS' <<https://www.psychologicalscience.org/news/releases/individualistic-practices-and-values-increasing-around-the-world.html>> accessed 17 November 2020.

practices and understanding of development can lead to different interpretations of the phenomenon of CSR.

4.1.2. Epistemological assumptions

Epistemology pertains to the meaning of knowledge, how it is developed³³⁴ in terms of the assumptions and criteria that it should meet³³⁵ in order to be acceptable, valid and legitimate as well as transferable to other contexts.³³⁶ Given in this study the participants are from native and non-native populations, both of which have acquired their cognitive knowledge through school and religious experiences. As a consequence of different exposure in this regard, their knowledge has been developed in contrasting ways. Notably, the spiritual connection to nature, oral traditions, and participation in festivities of the native peoples set them apart from the non-native ones,³³⁷ thus leading to different epistemological stances between the two groups.

For the current investigation, from the epistemological standpoint, the research methodology should take in consideration both forms of knowledge: a western epistemology originating from the Enlightenment based on rationalism and empiricism that favours cognitive knowledge for which written documents are legitimate tools that evidence it. It also needs to embrace an indigenous epistemology, where not only cognitive knowledge, but also, emotional and spiritual development are important components of epistemology, where individual and group understanding of history, oral traditions, celebrations and beliefs represent legitimate forms of knowledge.

Accordingly, social constructivism is the most suitable approach for this research as it considers that reality is socially constructed by the meaning of the shared ideas, which are reviewed and reworked by its actors through

³³⁴ Matthews and Ross (n 39).

³³⁵ Blaikie (n 319).

³³⁶ Gibson Burrell and Gareth Morgan, *Sociological Paradigms and Organisational Analysis : Elements of the Sociology of Corporate Life* (Reprinted, Heinemann Educational Books Ltd 1982).

³³⁷ Remy (n 331).

interaction and reflection.³³⁸ Blaikie adds that the creation of knowledge involves activities that occur within our historical, cultural and gendered ways of being.³³⁹ Moreover, different cultures are likely to have a different construction of social reality.³⁴⁰ In addition, Guba and Lincoln argue that this construction does not exist outside the individuals who create it.³⁴¹ Given CSR is a social construct based on the social reality of peasant communities in the Andes, it is important to understand their historical and cultural background as well as their formal and informal social interactions when carrying out their traditions. To achieve this understanding, it is important for the researcher to become actively engaged in the day to day lives of this population, rather than just being a mere observer.³⁴²

4.1.3. Research Philosophy

A significant part of the debate in socio-legal studies is between the positivist and interpretivist epistemological positions. Under positivism, it is assumed that there is only one external, knowable reality.³⁴³ It is perceived that knowledge of social phenomena can be observed and tested by a hypotheses and consequently, a subjective understanding is not allowed. The researcher is objective and hence, does not impact on the data,³⁴⁴ thus being detached from any association with the study subjects.³⁴⁵

Additionally, Smith argues that positivism and other paradigms derived from empiricism have limitations in terms of understanding the social world from an indigenous perspective, because this understanding is only focused on the objective measurement of certain issues.³⁴⁶ Hence, in order to understand the social reality, as focused upon in social sciences, an

³³⁸ Matthews and Ross (n 39); Saunders, Lewis and Thornhill (n 321).

³³⁹ (n 319).

³⁴⁰ *ibid.*

³⁴¹ *Fourth Generation Evaluation* (Sage Publications 1989).

³⁴² Dorothy Goulding, Brian Steels and Craig McGarty, 'A Cross-Cultural Research Experience: Developing an Appropriate Methodology That Respectfully Incorporates Both Indigenous and Non-Indigenous Knowledge Systems' (2016) 39 *Ethnic and Racial Studies* 783.

³⁴³ Mark Easterby-Smith, Richard Thorpe and Paul R Jackson, *Management Research* (4th edn, SAGE 2012).

³⁴⁴ Saunders, Lewis and Thornhill (n 321).

³⁴⁵ John W Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (3rd edn, SAGE Publication 2008).

³⁴⁶ (n 41).

epistemological stance that respects pluralistic nature of the social world is required and this accords with interpretivism.

Under interpretivism, social reality is not considered as being fixed as one form. It is deemed as being highly subjective, shaped by our perceptions,³⁴⁷ and advocates stress the importance of understanding the differences between humans as social actors.³⁴⁸ In this regard, the researcher becomes an integral part of the social world studied, having an insider view of the phenomenon of interest. Crotty argues that, with interpretivism, cultural and historical interpretations of the social world are sought.³⁴⁹ These perspectives have previously been applied in the study of CSR to provide a deep understanding of social reality,³⁵⁰ as witnessed in Blumberg et al.³⁵¹

In sum, interpretivism is deemed the most suitable epistemological position for this study, because it offers the acquisition of a holistic, deep understanding of how history, traditions, emotional and spiritual development of different groups influence the social construction of CSR and the role of the various stakeholders in this process. In addition, interpretivism, acknowledges the researcher as part of the phenomenon studied, experiencing a close connection with participants, and consequently, enabling him/her to garner a detailed understanding of the social world from different perspectives.

³⁴⁷ Collis and Hussey (n 40).

³⁴⁸ Saunders, Lewis and Thornhill (n 321).

³⁴⁹ *The Foundations of Social Research: Meaning and Perspective in the Research Process* (Sage Publications 1998).

³⁵⁰ Diana C Robertson, 'Empiricism in Business Ethics: Suggested Research Directions' (1993) 12 *Journal of Business Ethics* Aug 585.

³⁵¹ Boris Blumberg, Donald R Cooper and Pamela S Schindler, *Business Research Methods* (4th edn, McGraw-Hill 2014).

4.3. Research Approach

The ontological and epistemological stances of this research favour the analysis of different socially constructed realities. This study does not intend to propose and test hypotheses to measure how the institutional order shapes the understanding of CSR and social partnerships. That is, a deductive approach is not suitable for this research as it favours the formulation of hypotheses supported by objective and scientific facts that are tested in given circumstances to replicate and seek generalisations,³⁵² which may well be suitable for research in natural sciences, but not for social sciences inquiry.³⁵³ The researcher's assumptions favour a distinctive understanding of CSR and social partnerships that take into account the stakeholders' perceptions of their past relationships. Consequently, as this study is explorative in nature, a bottom-up approach is required in the form of inductive research, where observation and the analysis of the participants' perceptions and documents support the identification of preliminary relationships, generalisations and theory building.³⁵⁴

4.4. The research choice

After the identification of the research philosophical paradigms that determine how social reality is seen, the researcher's role in it, and what constitutes a valid study; the study requires an evaluation and selection between quantitative, qualitative, mixed methods or multi-methods research based on its appropriateness in answering the research questions.

4.4.1. Multiple Methods

Being a qualitative and explorative study in nature, the research involves using a multi-methods design in that more than one qualitative data

³⁵² Earl R Babbie, *The Practice of Social Research* (13th edn, Wadsworth Cengage Learning 2013).

³⁵³ John Gill, Phil Johnson and Murray Clark, *Research Methods for Managers* (4th edn, SAGE 2010).

³⁵⁴ W Lawrence (William Lawrence) Neuman, *Social Research Methods : Qualitative and Quantitative Approaches* (Allyn & Bacon 2006).

collection method is employed.³⁵⁵ The aim is to gain in depth understanding of the social reality according to the interpretations of native and non-native peoples regarding CSR. The qualitative research specifically probes the three elements of New Institutionalism and the deployment of indigenous methodology through interviews, participant observation and participation in native festivities. Secondary data in the form of relevant documentation is also drawn upon. Together, the collected datasets allow for triangulation, thus ensuring rich understanding of the participants' beliefs and perspectives on social reality. This approach is consistent with the researcher's interpretivism stance.³⁵⁶

4.4.1.1. Qualitative method

A qualitative method is aligned to this study's research philosophical paradigms as it allows a more in-depth, exploratory study of the phenomenon.³⁵⁷ As it follows an ontology that explores the interpretations, values and experiences of the participants, this method is suitable to understand the individuals' views that have been suppressed, ignored or misrepresented in the past,³⁵⁸ taking in consideration the social and culture context. As affirmed by Burns and Burns:

“qualitative research stresses the validity of multiple meanings of events with ‘reality’ not a fixed stable entity but a variable that can only be discerned through an analysis of multiple understandings and meaning held by different persons.”³⁵⁹

An advantage of qualitative research is that it allows for flexibility in the collection of information and understanding, in contrast to the standardised techniques used in quantitative approach.³⁶⁰ It is this

³⁵⁵ Emma Bell, Alan Bryman and Bill Harley, *Business Research Methods* (5th edn, Oxford University Press 2019).

³⁵⁶ Saunders, Lewis and Thornhill (n 321).

³⁵⁷ Amy C Edmondson and Stacy E Mcmanus, 'Methodological Fit in Management Field Research' (2007) 32 *The Academy of Management Review* 1155.

³⁵⁸ Clive Seale, *Researching Society and Culture* (3rd edn, Sage 2012).

³⁵⁹ *Business Research Methods and Statistics Using SPSS* (SAGE Publications Ltd 2008) 18.

³⁶⁰ Piergiorgio Corbetta, *Social Research Theory, Methods and Techniques* (SAGE Publications 2003); David Silverman, *Doing Qualitative Research : A Practical Handbook* (Sage Publications 2000).

flexibility that allows for human interaction between the researcher and participants.³⁶¹ The main criticisms made of qualitative research include: its subjective nature, based on the researcher's own views about what is important and significant; the close relationship with the subject studied; the difficulty in the research replication and generalisation;³⁶² and lack of transparency in the data analysis.³⁶³

Taking in consideration all these arguments, qualitative research has been identified as appropriate for this study in terms of being able to address the research questions robustly. It allows for interpretation of the participants' needs, demands and expectations in their natural settings,³⁶⁴ thereby uncovering the dynamic interrelationships between the stakeholders. Moreover, it fosters the identification of the similarities and dissonances in their perceptions. To understand the expectations of members of peasant communities, the methodology should take into consideration not only written documents that identify their traditions and culture, but also, their oral stories. By so doing, an emotional and spiritual connection with comuneros can be established, thereby providing understanding of their epistemological perspectives. That is, an indigenous theory perspective is essential for uncovering the priorities of such communities in the context of CSR.

4.4.1.2. Indigenous methodology

The second main research approach used in this study is indigenous methodology, which has been defined as:

³⁶¹ Pratima Bansal and Kevin Corley, 'The Coming of Age for Qualitative Research: Embracing the Diversity of Qualitative Methods' (2011) 54 *Academy of Management Journal* 233

<https://aom.org/uploadedFiles/Publications/AMJ/Apr11_Bansal_Corley.PDF>; S (Sotirios) Sarantakos, *Social Research* (4th edn, Palgrave Macmillan 2012).

³⁶² Alan Bryman, *Social Research Methods* (4th edn, OUP Oxford 2012).

³⁶³ Alan Bryman and Robert G Burgess, *Analyzing Qualitative Data* (Uwe Flick ed, SAGE Publication 1994).

³⁶⁴ Norman K Denzin and Yvonna S Lincoln, *The SAGE Handbook of Qualitative Research* (3rd edn, Sage Publications 2005); Sharan B Merriam, *Qualitative Research: A Guide to Design and Implementation* (Rev Exp ed, John Wiley & Sons 2009).

*"methods critically, for explicit social justice purposes. It values the transformative power of indigenous, subjugated knowledges. It values the pedagogical practices that produce these knowledges".*³⁶⁵

Under this lens, the ontological and epistemological stances of native people in Peru, as represented by Andean peasant communities living in remote areas where mining companies operate, can be respected. Since colonial times, there have been historical injustices in research practices in that western written stories on the ways of knowing have been given much more credence than oral ones shared by indigenous people.

Botha argues that current social science research does not cater for the ontological and epistemological stances of indigenous studies.³⁶⁶ For this reason, there is a need for a methodology that delivers social justice by changing the relationship between the researcher and the participants.³⁶⁷ Indigenous methodologies should endeavour to acknowledge the untold stories of the indigenous peoples, thereby rewriting the boundaries in the ways of knowing between western and indigenous research,³⁶⁸ so as to recognise the lost voices and visions of the people being studied.³⁶⁹

In devising indigenous methodologies, the researcher needs to live with the community to capture the unique norms,³⁷⁰ codes and protocols for dialogue along with other aspects that are part of the indigenous way of

³⁶⁵ Ladislaus Semali and Joe Kincheloe, *What Is Indigenous Knowledge?. Voices from the Academy* (Falmer Press 1999) p.15.

³⁶⁶ 'Mixing Methods as a Process towards Indigenous Methodologies' (2011) 14 *International Journal of Social Research Methodology – International Journal of Social Research* 313 <<http://www.tandfonline.com/doi/pdf/10.1080/13645579.2010.516644>> accessed 17 May 2017.

³⁶⁷ Karen Potts and Leslie Brown, 'Becoming an Anti-Oppressive Researcher' in Leslie Allison Brown and Susan Strega (eds), *Research as resistance : critical, indigenous and anti-oppressive approaches* (Canadian Scholars' Press 2005) <https://occupyresearchcollective.files.wordpress.com/2012/06/research_as_resistance__critical__indigenous__and__anti__oppressive_approaches1.pdf> accessed 7 June 2016.

³⁶⁸ Smith (n 41).

³⁶⁹ Yankah (n 42).

³⁷⁰ Tshimanga Kongolo, 'Towards a More Balanced Coexistence of Traditional Knowledge and Pharmaceuticals Protection in Africa' (2001) 35 *Journal of World Trade* 349.

life, thereby acknowledging their perception of reality. Lavallee states that an indigenous epistemology:

*“acknowledges the interconnectedness of physical, mental, emotional, and spiritual aspects of individuals with all living things and with the earth, the star world, and the universe”.*³⁷¹

During this study, the researcher visited peasant communities in Ancash region for a period of two months, which represented an opportunity to live with the community and understanding their norms, protocols,³⁷² consultation process, dialogue and other aspects that are part of the indigenous way of life and contribute in their perception of reality. In this context, the term cosmovision is pertinent as it is a concept particularly referred to in the make-up of Mesa-American peoples. Van 't Hooft defined this as the way a population perceives the cosmos and the relationship between the human world, natural world, and the spiritual world.³⁷³ These, in particular, form the foundations where native people organise themselves and interact with others, nature and supernatural forces.³⁷⁴ In order to understand native people's cosmovision, the researcher cannot be an observer of the phenomenon, but rather, needs to engage as an active participant in the local traditions.

This investigator identifies himself as an indigenous researcher in that he participated in some native traditions, such as offerings to the motherland and took part in the patronal feast in Caraveli (Arequipa region) in his youth. However, his relationship with the indigenous world is not strong as he was educated in the capital Lima, and lives in a western educational and economic system, which has had a negative impact on his understanding of indigenous epistemology. However,

³⁷¹ Lynn Frances Lavallee, 'Practical Application of an Indigenous Research Framework and Two Qualitative Indigenous Research Methods: Sharing Circles and Anishnaabe Symbol-Based Reflection' (2009) 8 International Journal of Qualitative Methods 21, 23

<<https://ejournals.library.ualberta.ca/index.php/IJQM/article/view/943/5195>> accessed 6 May 2019.

³⁷² Kongolo (n 370).

³⁷³ María Durán López, 'Sumak Kawsay o Buen Vivir, Desde La Cosmovisión Andina Hacia La Ética de La Sustentabilidad' (2010) 10 Revista Pensamiento Actual (San José) 51.

³⁷⁴ *ibid.*

undertaking this study has provided him with the opportunity to reconnect with these roots and capture the voices of comuneros from the Ancash region.

However, during the fieldwork this process of reconnection had a twofold and conflicting effect in that some comuneros saw the researcher as a 'spy of the mining companies', who wanted to take an advantage of them and therefore, rejected being part of the study, whilst others saw him as an agent of positive social change, as being in support of their cause and thus, were willing to participate in the research.

Living with peasant communities for a substantial period of time is essential for sharing experiences, developing trust and thus, building a connection with the community. To conduct this study, the researcher stayed in the region for two months, which did not allow for exploitation of all the capabilities of an indigenous methodology. Nevertheless, the researcher did participate in traditional activities with comuneros, such as informal conversations in the city square, sharing traditional food, such as 'Cuy Chactado' with 'quinoa', sharing the same glass when drinking 'Chicha de Jora' or 'beer' with comuneros, dancing 'huayno' music with them, and helping to rescue local injured people from a car accident during a visit to 'Huayanca town' (Bolognesi province).

All of these doings helped the researcher to develop a strong emotional and spiritual connection with comuneros, who did not demand the compliance in these practices. Moreover, they did give the researcher the legitimacy by accepting him in the community and agreeing to participate in the research. However, the participation in these practices did not break down the gender barrier, for few women agreed to participate in the interviews.

Smith argues that indigenous perspectives face the challenge of meeting the criteria of the main research approaches used in academia

and for that reason,³⁷⁵ the adoption of the former should not exclude the mainstream of social science methodologies.³⁷⁶ In fact, flexibility is an important aspect for recasting the research methodology and methods through engagement with other approaches found in qualitative research. Regarding which, Botha investigated the relationship between qualitative and indigenous research.³⁷⁷

Botha argues that indigenous methodology is generated from westernised qualitative research and hence, there is synergy between the two.³⁷⁸ Similarly, Smith argues that mixing these methods allows for the potential of liberating/setting free the collaboration between qualitative and indigenous research, thereby redrawing the boundaries of the ways of knowing.³⁷⁹ Hence, combining qualitative and indigenous methods is acceptable and it enables the researcher to acquire a deep understanding of the indigenous participants' interpretations of social reality.

4.4.1.3. Quantitative data

Quantitative data in the form of socio-economic and environmental indicators, provides just background information on the impact of the mining industry in Peru. It is not used to triangulate the qualitative data from the interviews and observations. That is, different to the positivist ontological and epistemological stances, which consider social reality as a single, objective, external reality that exists independently of human perception,³⁸⁰ the interpretivist perspective adopted for this research allows for multiple views of reality.

³⁷⁵ (n 41).

³⁷⁶ Bénédet Bujo, *Foundations of an African Ethic : Beyond the Universal Claims of Western Morality* (Independent Publishers Group 2001).

³⁷⁷ (n 366).

³⁷⁸ *ibid.*

³⁷⁹ (n 41).

³⁸⁰ Bryman (n 362); Clarke and Dawson (n 326).

4.5. The research strategy

The research strategy of any study refers to the plan that offers a methodological coherence between the research philosophy, methods adopted, and the data analysis deployed to address the research questions.³⁸¹

4.5.1. Case study

A case study is the methodology selected for this investigation, as it allows for responding to a descriptive question, such as: What is happening or has happened? or an explanatory question,³⁸² for example, how or why did something happen? Additionally, a case study provides a thorough investigation within a real-life context.³⁸³ Another important feature of case studies is that they allow the use of multiple-data collection methods,³⁸⁴ such as observation, interviews and surveys. Current community partnership agreements in Peruvian mining projects require comprehensive analysis to understand how the varied and complex needs and idiosyncrasies of stakeholders have been contributing to the development of CSR initiatives.

However, the case study approach has been subject to criticism. For instance, Yin,³⁸⁵ considers that 'case study research is the exploratory phase for using other social science methods' and, consequently, it may not be considered as a serious inquiry, and could lack credibility in the procedures carried out. Moreover, Remenyi et al.³⁸⁶ point out the weak objectivity and rigour in the approach. Additionally, because a case study

³⁸¹ Saunders, Lewis and Thornhill (n 321).

³⁸² Robert K Yin, *Case Study Research : Design and Methods* (4th edn, SAGE Publications 2008); Robert K Yin, *Applications of Case Study Research* (3rd edn, SAGE Publications 2012); Jillian Dawes Farquhar, *Case Study Research for Business* (SAGE Publications Ltd 2012).

³⁸³ Bryman (n 362); Frank E Hagan, *Research Methods in Criminal Justice and Criminology* (7th edn, Allyn & Bacon 2006).

³⁸⁴ John W Creswell, *Qualitative Inquiry and Research Design : Choosing among Five Approaches* (3rd ed., SAGE Publications 2013); Bruce L Berg and Howard Lune, *Qualitative Research Methods for the Social Sciences* (8th ed., Pearson Education Inc 2012); Immy Holloway and Stephanie Wheeler, *Qualitative Research in Nursing and Healthcare* (3rd edn, Wiley-Blackwell 2010).

³⁸⁵ *Applications of Case Study Research* (n 382) 5.

³⁸⁶ Dan Remenyi and others, *Doing Research in Business and Management : An Introduction to Process and Method* (Sage Publications Ltd 1998).

investigates a phenomenon in a specific context and it does not involve large sample sizes, it is not possible to generalise the findings to a population.³⁸⁷ Lastly, it is not always clear if the 'case' is to be studied in its context, or the case is the context.³⁸⁸

Despite the above limitations of case study research, in order to gather rich data on the lives of the native and non-native peoples involved with the Peruvian mining industry, a case study approach was deemed most appropriate. It allows for the interpretive enquiry necessary to, on the one hand, uncover the narratives of the mining companies, government and third parties (e.g NGOs and consultancies) regarding CSR. On the other hand, it also enables uncovering the nature of the cosmovision of native people, thereby shedding light on how their perspective on social reality influences how they see CSR.

In sum, three case studies that focus on the impact of social partnerships between the peasant community, mining company, and government in the Peruvian mining industry have been undertaken. The key findings of these signed agreements are included in chapters five and seven as there is a stronger link to the regulative, normative and cultural-cognitive elements of institutionalism. The variation between cases provides a more compelling interpretation of the phenomenon of interest in different contexts, thus ensuring robust data analyses and trustworthy outcomes.³⁸⁹

4.5.1.1. Case study 1 – Minera Paron S.A.C.

Minera Paron S.A.C is a small-scale Peruvian mining company with registration number: 20331781313, that was founded in Lima in 1978, focused primarily on the exploration and exploitation of lead, zinc and copper. Its main project is the Anita mine, located at an altitude of 3,900 metres in the province of Carhuaz, Ancash region. As Minera Paron does not have a community relations office, the negotiations with the

³⁸⁷ Farquhar (n 382); Robert E Stake, *The Art of Case Study Research* (Sage Publications 1995).

³⁸⁸ Matthew David, *Case Study Research* (Sage Publications Ltd 2006).

³⁸⁹ Merriam (n 364).

peasant community and CSR activities were carried out by the mine manager. The nearby peasant community is the '3 de Octubre – Zanja' located in Yungar district. The province of Carhuaz has 167 registered comuneros, of which 125 speak Quechua,³⁹⁰ but the majority are bilinguals. The participants were former employees, with whom the researcher had personal connections; and comuneros, who were met during a communal assembly and in the city square.

The community and the mining company had signed easement agreements in different years.³⁹¹ During the fieldwork, the researcher had access to two easement agreements: one signed on August 17th, 2000; and in April 2013, the comuneros signed another that was put into force from April 15th, 2013 to December 31st, 2014, with an automatic renewal on the same terms through a simple letter sent to the peasant community. However, due to confidentiality issues only the contract signed on 2013 can be exhibited, which its Spanish version can be found in Appendix 4.1.

These contracts represent an early form of partnership between the mining companies and comuneros in that they specify some CSR initiatives, such as the duty of the company to hire high-skilled and low-skilled workers from the community, the payment as well as food and accommodation in the mine compound. During this negotiation, the peasant community proposed a rota as the mining companies could not hire all the comuneros at the same time and some of the elderly were allowed send a replacement to cover their shifts, if they were unable to work.

This demonstrates how flexible the peasant community leaders were in accommodating their demands according to the mining company capabilities and hence, sought a positive relationship between the mining company and the community. However, after the company

³⁹⁰ INEI, 'Censos Nacionales 2017: XII de Población, VII de Vivienda y III de Comunidades Indígenas' (n 45).

³⁹¹ Ernst and Young (n 1).

changed owners in 2014, the harmonious relationship changed. Paron did not comply with the signed agreement and as a consequence, the comuneros blocked the entrance to the mine. As a result, during the fieldwork there were no mining operations carried out by the company.

4.5.1.2. Case study 2 – Minera Antamina

Antamina is a mining company that has been involved in mining exploration and operation since the 1950s, having had several changes of ownership. Currently, it is owned by a consortium composed of the Australian BHP Billiton plc (33.75%), the Swiss Glencore plc (33.75%), Japanese Mitsubishi Corporation (10%) and the Canadian Teck Resources Limited (22.5%).³⁹² In 1998, Antamina obtained a mining lease with a proposed 2,520 US million investment and from May 28th, 2001, started large-scale mining operations in a copper and zinc mine in San Marcos district, Huarí province in the Ancash Region at an elevation 4,300 m.³⁹³

Antamina has developed social initiatives with different peasant communities, including Ango Raju, Huaripampa³⁹⁴ and Santa Cruz de Pichíú;³⁹⁵ and in rural populated centres,³⁹⁶ such as Carguayoc.³⁹⁷ On April 1st, 2016, Antamina and the San Marcos city council as the representative of thirteen rural populated centres signed a Framework Agreement that specified the responsibilities and duties of the parties in the social partnership. It also identified the areas of sustainable development, including: health, nutrition and public sanitation;

³⁹² Teck, 'Antamina' <<https://www.teck.com/operations/peru/operations-5619/antamina/>> accessed 27 July 2020.

³⁹³ Antamina, 'Nuestra Historia' <<https://www.antamina.com/quienes-somos/historia/>> accessed 27 July 2020.

³⁹⁴ Antamina, 'Comunidad Campesina de Huaripampa Tendrá Nuevo Reservorio En Hongop' (*Noticias*, 2019) <<https://www.antamina.com/noticias/comunidad-huaripampa-nuevo-reservorio-hongop/>> accessed 27 July 2020.

³⁹⁵ Energiminas, 'Antamina y Comunidad Campesina de Santa Cruz de Pichíú Alcanzaron Importantes Acuerdos' *Energiminas* (13 January 2020) <<https://energiminas.com/antamina-y-comunidad-campesina-de-santa-cruz-de-pichiu-alcanzaron-importantes-acuerdos/>> accessed 27 July 2020.

³⁹⁶ According to the INEI, a rural populated centre can have up to 2 thousand inhabitants. Their homes are generally grouped contiguously forming blocks and streets. In some cases, their homes can be scattered.

³⁹⁷ MINEM, 'Antamina y Comunidad de Ango Raju Llegan a Importantes Acuerdos' (*Gestión Social*, 2009) <<http://www.minem.gob.pe/descripcion.php?idSector=3&idTitular=1530>> accessed 27 July 2020.

education, culture and sports; local economic development and tourism; employment generation (high-skilled and low-skilled workers). It is notable that the CSR initiatives cover the development of capabilities and short-term needs, such as employment. Due to privacy issue, these framework agreements cannot be shown as appendices.

In this case, it was not possible to have access to easement agreements, which by law, mining companies had to sign with the nearby peasant community,³⁹⁸ some of whom took part in the interviews for the current research. The participants were former employees of the mining company, city council members and comuneros from different peasant communities and populated centres. The participants were contacted by emails, LinkedIn, and in the case of those who were part of the peasant community and were willing to participate, they were recruited in town squares (plazas).

4.5.1.3. Case study 3 – Santa Luisa

Santa Luisa is a medium-size mining company founded by Peruvian investors on August 21st, 1964; however, on December 31st, 2011 the Japanese Mitsui Mining & Smelting Co Ltd became the majority shareholder (70%).³⁹⁹ Its Huanzala mine, located in the Huallanca district, Bolognesi province, in the Ancash region, is responsible for the extraction of lead, zinc and copper,⁴⁰⁰ being currently in the closure stage of the mine cycle.⁴⁰¹

Despite Santa Luisa having implemented CSR initiatives in the nearby peasant communities, including Llacuash and Ututupampa, there has been an increasing demand of the development of a framework

³⁹⁸ Ernst and Young (n 1).

³⁹⁹ MarketScreener, 'Compañía Minera Santa Luisa s.a.C' (*Bolsa De Valores De Lima*) <<https://www.marketscreener.com/COMPAA-A-MINERA-SANTA-LUI-20699995/company/>> accessed 27 July 2020.

⁴⁰⁰ Compañía Minera Santa Luisa, 'La Empresa' (*Corporate web page*) <<http://cmslsa.com/>> accessed 27 July 2020.

⁴⁰¹ The mining life cycle can be divided into four stages: exploration, development, operation and closure; British Columbia Mine Information (n 78).

agreement with the whole district. Like the case of Antamina, it was not possible to access the easement agreement signed with the peasant communities. But the researcher did have access to the Framework Agreement signed in 2007 between the mining company, the city council, the ministry of Energy and Mines (MINEM) as well as the Civic Defence and Development of Huallanca, a civil Association that represents the demands of the peasant communities and populated centres in Huallanca (see Appendix 4.2).

This framework agreement identifies the responsibilities of the parties and CSR initiatives. For example, the mining company's main responsibility is the economic development of the town by offering training and job opportunities to the local population, and the development of environmental monitoring of its operations, while the city council is responsible for proposing sustainable projects that can be co-funded with the mining company.

In this case study, the selection of participants was determined when the researcher arrived in Huallanca district, where he had the opportunity to meet the community leaders, representatives of the mining company, government and third parties.

4.6. Data Analysis

Template analysis is utilised in this study to analyse the interviews, which involves the use of hierarchical coding to develop a relatively high degree of structure in the process of analysing the textual data. It allows for flexibility in terms of the adaption of this structure to fit the needs of the study.⁴⁰² The main feature of this approach is the development of a coding template based on the identification of recurrent themes in several interview transcriptions. New codes can then be added when further transcriptions are analysed. Due to financial issues and time

⁴⁰² Joanna Brooks and others, 'The Utility of Template Analysis in Qualitative Psychology Research.' (2015) 12 *Qualitative research in psychology* 202.

constrains, the researcher transcribed the interviews in Spanish and only translated quotations into English that resonated with the identified themes and codes.

The data analysed in template analysis are usually interview transcripts, textual data from diary entries, or open-ended question responses to a written questionnaire. The coding template in this study is based on the selection of interview transcriptions from the four groups of participants. The template utilised can be found in Appendix 4.3. Template analysis does not mean that other researchers would not find a different classification of codes of the subjective reality; however, it does ensure the standardisation of the process when developing codes.

4.7. Data collection methods

The selection of the research methods refers to the technical procedures used to gather data,⁴⁰³ which were aligned with the interpretivist view of social reality, as discussed above.

4.7.1. Primary data collection methods

In this study, observations and interviews were the primary data collection methods selected as they are aligned to the interpretivism stance that allowed for the gathering of native and non-native people's in-depth views on CSR.

4.7.1.1. Observation

Observations were carried out during the fieldwork to understand peasant communities' cosmovision, shared values as well as the process of legitimation of social behaviour. To this end, the researcher observed comuneros' participation in their traditional activities, such as informal conversations in public spaces and celebrations, such as

⁴⁰³ McGregor and Murnane (n 324).

communal assemblies, the Independence Day and the patronal feast. In addition to observation, the researcher's participation in their traditional activities allowed for him to be viewed as an empathetic agent, who wanted to help them to address the social issues they were concerned about. As a consequence, detailing their honest opinions relating to the phenomena of interest was made possible and hence, a comprehensive understanding of these native people's values and symbolic representation of reality was obtained. To achieve these goals, the researcher stayed in a town or village close by and commuted to the peasant community.

Observations of representatives from mining companies, the government and third parties were not possible to carry out due to the failure to gain permission for such an exercise. In fact, some interviewees preferred interviews in public places outside their workplaces where they felt it was a more comfortable and suitable environment to have a frank conversation. This was particularly the case for those from the government and mining companies.

4.7.1.2. Interviews

Interviewees were used to gather the perceptions of all the groups of stakeholders, this being an interactive process that can provide in-depth information regarding the subject of interest.⁴⁰⁴ Interviews allow for the construction of knowledge through the researcher's interpretation of the interviewees' contribution.⁴⁰⁵ Moreover, interviews collect data that would not be accessible using other methods, such as observation or questionnaires.⁴⁰⁶

⁴⁰⁴ Martyn Denscombe, *The Good Research Guide : For Small-Scale Social Research Projects* (5th edn, Milton Keynes 2014).

⁴⁰⁵ Jane Ritchie and others, *Qualitative Research Practice : A Guide for Social Science Students and Researchers* (2nd edn, SAGE Publications Ltd 2014).

⁴⁰⁶ Loraine Blaxter, Christina Hughes and Malcolm Tight, *How to Research* (3rd edn, Milton Keynes 2006).

According to Seale,⁴⁰⁷ the variables that affect the outcomes of the interview include: the interaction between the interviewer and interviewee, the form of questioning and the location where the interview takes place. The lattermost was salient when interviewing representatives from the mining companies and government. That is, most asked to meet outside their workplace and to avoid any interruption by their colleagues and so as to be able to speak freely without concern that any criticism could be overheard.

There are three main types of interviews: structured, unstructured and semi-structured interviews. Structured interviews were deemed not suitable for this study as these involved standardised questions being put to all interviewees without any flexibility in the form of follow up questions. For that reason, it tends to be used by positivist researchers.⁴⁰⁸ Consequently, structured interviews do not meet the researcher's stance on social constructivism and interpretivism in that the use of closed questions and fixed choice answers cannot capture the experience of the respondents and their interpretation of the real world.⁴⁰⁹

Alternatively, unstructured interviews take the form of a conversation,⁴¹⁰ where open-ended questions are put aimed at exploring in detail the experiences,⁴¹¹ motives and opinions of the interviewees in their own words.⁴¹² However, the lack of structure in such interviewing can lead to time being wasted in discussing matters outside the scope of the research and hence, this interview style was not adopted.⁴¹³

⁴⁰⁷ (n 358).

⁴⁰⁸ Patrick McNeill and Steve Chapman, *Research Methods* (3rd edn, Routledge 2005).

⁴⁰⁹ *ibid.*

⁴¹⁰ Steinar Kvale and Svend Brinkmann, *InterViews : Learning the Craft of Qualitative Research Interviewing* (2nd edn, Sage Publications 2009).

⁴¹¹ McNeill and Chapman (n 408).

⁴¹² Herbert J Rubin and Irene Rubin, *Qualitative Interviewing : The Art of Hearing Data* (3rd edn, Sage publications 2012).

⁴¹³ McNeill and Chapman (n 408).

Semi-structured interviews were used in this study as this allowed for the combination of closed and open questions that collect factual and attitudinal data.⁴¹⁴ For these, a less standardised format is pursued with a list of themes and questions that not necessarily are covered in full in all the interviews. Consequently, it provides flexibility in the sequence of the questions and new ones can be asked in order probe further any interesting responses given by the interviewee that can shed light on the investigation.⁴¹⁵ During the interviews with comuneros, the researcher changed the formulation of some questions to reflect their daily activities and to provide opportunities for the participants to expand upon their answers.⁴¹⁶

The fieldwork was carried out for 83 days divided on two stages between 2016 and 2017, during which 53 interviews were undertaken; 47 of which being audio recorded, while notes were taken by the researcher in the other six. The groups of interviewees are shown in Table 4.1.

- Phase 1: from 15th to 30th August 2016, which was carried out in Lima comprising seven interviews. The researcher attended the III International Congress of Community Relations organised by the Institute of Mining Engineers of Peru (17th to 19 August) that represented an opportunity for networking and meeting potential interviews from the government, mining companies and third parties.
- Phase 2: from 14th June to 6th September 2017, which was carried out in the Lima and Ancash regions, comprising 46 interviews. The researcher contacted participants of the III International Congress of Community Relations, through professional groups in LinkedIn related to Peruvian mining and third parties, who worked with Andean peasant communities.

⁴¹⁴ *ibid.*

⁴¹⁵ David E Gray, *Doing Research in the Real World* (2nd edn, Sage Publications Ltd 2009).

⁴¹⁶ Clarke and Dawson (n 354)

Table 4.1: Groups of interviewees

Groups of interviewees	
Group	Name
Communities from cities, peasant communities, populated centres and hamlets ⁴¹⁷	<ul style="list-style-type: none"> • Tres de Octubre – Zanja • San Marcos • Huallanca • Tres de Mayo Yaquash • Huaripampa • Juan Antonio de Juprog • San Luis • Trigo Pampa • Andres Avelino Caceres – Cuncashca
Mining Companies	<ul style="list-style-type: none"> • Goldfields la Cima • Paron S.A.C. • Antamina • Barrick • Minera Plomo S.A.C. • Buenaventura • Bear Creak • Santa Luisa S.A.C
Government	<ul style="list-style-type: none"> • The Dialogue and Sustainability National Office • The National Environmental Certification Service (SENACE) • Mayors • Ministry of Energy and Mines (MINEM) • Ministry of the Environment
Third parties	<ul style="list-style-type: none"> • Caritas • United States Agency for International Development (USAID) • Swisscontact • the Ecumenical Centre for Promotion and Social Action North (CEDESPAS Norte) • Poch

⁴¹⁷ A hamlet can have between 151 and 1000 inhabitants. Their homes are generally grouped contiguously or partially scattered, an educational centre in operation and a communal place for multiple use; Instituto Terramar, 'Marco Conceptual Para El Ordenamiento e Integración de Centros Poblados Urbanos y Rurales En El Territorio Nacional' (2015) <<http://ww3.vivienda.gob.pe/DGPRVU/docs/2. MARCO CONCEPTUAL.pdf>> accessed 27 September 2019.

Originally, the researcher used the snowballing technique to find further interviewees as representatives of the mining companies, government and third parties. That is, at the end of each the interview, the interviewee was asked to refer other potential candidates for interviewing.⁴¹⁸ However, this approach was deemed not suitable for potential interviewees from the peasant communities as the researcher did not expect there would be sufficient trust for this to be fruitful. Surprisingly, the comuneros, with their strong family connections (cousins and uncles) as well as friends and acquaintances, were willing to recommend others from their own and other communities, in particular, after they came to realise that the researcher was genuinely interested in capturing their narratives.

Additionally, the interviewer requested the registry of community members in order to select participants randomly; however, the presidents of the communities would not provide it as it is a confidential document. Another approach was to attend the communal assembly and ask permission to speak to potential candidates for interviewing. Another technique involved contacting representatives from NGOs, who could provide suggestions of communities where the former have implemented social development initiatives. This approach proved effective in that legitimacy for the research was provided by these NGOs.

According to the Law N° 27795 "Law of Demarcation and Territorial Organization", a rural or urban national territory within a Provincial and District Municipality, inhabited by inhabitants who share common interests of an economic, social, cultural and historical nature, can be categorised as: a village, populated centre, hamlet, peasant or native community.⁴¹⁹ The interviews undertaken with native people, as illustrated in Table 4.2, show the territorial categorisation of the communities from which they were drawn.

⁴¹⁸ Saunders, Lewis and Thornhill (n 321).

⁴¹⁹ Reglamento de la Ley N° 27795 , Ley de Demarcación y Organización Territorial 2003 1.

Table 4.2: Category of communities from which interviewees were drawn

Name	Territory Category	District	Province
San Marcos	City	San Marcos	Huari
Tres de Octubre - Zanja	Peasant community	Yungar	Carhuaz
Huallanca	City	Huallanca	Bolognesi
Tres de Mayo Yaquash	Peasant community	Huallanca	Bolognesi
Huaripampa	Populated centre	San Marcos	Huari
Juan Antonio de Juprog	Hamlet	San Marcos	Huari
San Luis	Peasant community	Yungar	Carhuaz
Trigo Pampa	Populated centre	Yungar	Carhuaz
Andres Avelino Caceres - Cuncashca	Peasant community	Jangas	Huaraz

There were generally four themes discussed in the interviews; however, in some of them, particularly those with comuneros, the focus was mainly on subject matter that the interviewee was most interested in.

The four themes covered were:

1. The perception of the impact of current regulations in the development of partnerships in the mining industry;
2. The impact of cultural factors, such as myths, language or clothing, one the development of partnerships with mining companies;

3. Perceptions about the economic, social and environmental impact of mining companies in rural communities; and
4. Perception of the stakeholders and their roles in promoting the partnership.

The codes allocated to each participant, their role and the case study to which they belonged are provided in Table 4.3. The meaning of each interviewee code is provided in Subsection 4.9.2.

Table 4.3: Categories of communities from which the interviewees were drawn

No.	Interviewee	Gender	Sector	Status	Province	Additional information	Date
1	C1C1	M	Community	Comunero	Huari	City	14/08/2017
2	C2C3	M	Community	Comunero	Carhuaz	Peasant community	22/07/2017
3	C3C2	F	Community	Comunero	Bolognesi	City	04/08/2017
4	C4C2	M	Community	Comunero	Bolognesi	Peasant community	06/08/2017
5	C5C1	F	Community	Comunero	Huari	Populated centre	09/08/2017
6	C6C2	M	Community	President	Bolognesi	City	13/07/2017
7	C7C1	M	Community	Comunero	Huari	Hamlet	13/08/2017
8	C8C1	M	Community	Local Committee President	Huari	Hamlet	13/08/2017
9	C9C1	M	Community	President of Defence Front	Huari	City	14/08/2017
10	C10C3	M	Community	Comunero	Yungar	Peasant community	16/08/2017
11	C11C3	M	Community	President of Community	Carhuaz	Peasant community	18/07/2017
12	C12C3	M	Community	Mayor	Carhuaz	Populated centre	19/07/2017
13	C13C3	M	Community	President of Community	Carhuaz	Peasant community	19/07/2017
14	C14C3	M	Community	President of Community	Huaraz	Peasant community	25/07/2017
15	G1C2	M	Government	Consultant	Lima	Ministry	25/08/2016
16	G2C1	M	Government	Manager	Huaraz	Regional government	02/08/2017
17	G3C2	M	Government	Legal assistant	Lima	Ministry	05/07/2017
18	G4C1	M	Government	Manager	Huari	City Council	09/08/2017
19	G5C1	M	Government	Assistant	Huari	City Council	14/08/2017
20	G6C3	M	Government	Mayor	Carhuaz	City Council	16/07/2017
21	G7C3	M	Government	Manager	Lima	Ministry	20/08/2017
22	G8C3	F	Government	Advisor	Lima	Ministry	29/08/2017
23	M1C1	M	Mining	Vice-president	Cajamarca	Subsidiary	24/08/2016
24	M2C3	M	Mining	Owner	Ancash	Peruvian mining company	16/08/2016
25	M3C2	M	Mining	Community Relations Manager	Huancavelica	Peruvian mining company	24/08/2016
26	M4C1	M	Mining	Superintendent	Cajamarca	Subsidiary	26/08/2016
27	M5C3	M	Mining	Consultant	Ancash	Peruvian mining company	28/16/2017
28	M6C2	M	Mining	General Manager	Ancash	Subsidiary	04/07/2017
29	M7C2	M	Mining	General Manager	Ancash	Joint Venture	06/07/2017

No.	Interviewee	Gender	Sector	Status	Province	Additional information	Date
30	M8C1	F	Mining	Community Relations Manager	Ancash	Joint Venture	10/08/2017
31	M9C1	M	Mining	Consultant	Ancash	Joint Venture	16/06/2017
32	M10C3	M	Mining	Supervisor	Ancash	Subsidiary	18/07/2017
33	M11C1	M	Mining	Consultant	Ancash	Peruvian mining company	20/08/2017
34	M12C3	M	Mining	General Manager	Ancash	Peruvian mining company	23/06/2017
35	M13C2	M	Mining	Consultant	Ancash	Joint Venture	28/06/2017
36	T1C3	M	Third party	Executive coordinator	Lima	Non-governmental organization	24/08/2016
37	T2C1	F	Third party	Consultant	Lima	Consulting firm	26/08/2016
38	T3C1	M	Third party	Manager	Lima	International organisation	20/08/2017
39	T4C2	M	Third party	Advisor	Ancash	Non-governmental organization	03/08/2017
40	T5C2	M	Third party	Director	Lima	Non-profit-organisation	04/07/2017
41	T6C3	M	Third party	Manager	Lima	Consulting firm	05/07/2017
42	T7C3	M	Third party	Coordinator	Lima	International organisation	07/08/2017
43	T8C2	F	Third party	Coordinator	Lima	Consulting firm	10/07/2017
44	T9C1	M	Third party	Consultant	Lima	International organisation	16/06/2017
45	T10C1	M	Third party	Manager	Lima	International organisation	19/06/2017
46	T11C1	M	Third party	Coordinator	Lima	International organisation	22/06/2017
47	T12C3	M	Third party	Director	Lima	Non-profit-organisation	24/08/2017

4.7.2. Secondary data collection

The secondary data collection was through the analysis of the socio-economic performance of mining in Peru, including GDP⁴²⁰, taxes, poverty and socio-environmental conflicts, thus providing background information on the impact of this industry. In addition, three partnership agreements (one easement and two framework agreements) between mining companies and local communities were studied and compared to identify current themes, the CSR programmes developed, investment in social programmes, international standards affiliation as well as measured social, economic and environmental indicators. It is important to have this information as it complements that collected from primary sources. It may confirm, modify or contest the findings.⁴²¹ It is a cost-effective method of getting data that is open to public scrutiny.⁴²² However, the limitations of this method are that the documents used as a data source are usually created for purposes that are different from the aims of the investigation,⁴²³ and some documents produced by companies are only available for internal use.⁴²⁴

4.8. Evaluation of research quality

Some authors argue that difficulties arise when determining quality in qualitative research,⁴²⁵ whilst others have identified some factors that may guarantee minimum standards of quality during the research process, including: rigour and reflexivity.⁴²⁶ The quality of qualitative research resides in the justifications and transparency of the motivations and decisions taken from the beginning.

⁴²⁰ Gross domestic product

⁴²¹ Blaxter, Hughes and Tight (n 406).

⁴²² Denscombe (n 404).

⁴²³ *ibid.*

⁴²⁴ Saunders, Lewis and Thornhill (n 321).

⁴²⁵ Michael Beverland and Adam Lindgreen, 'What Makes a Good Case Study? A Positivist Review of Qualitative Case Research Published in Industrial Marketing Management, 1971–2006' (2010) 39 *Industrial Marketing Management* 56; Silverman (n 360).

⁴²⁶ Brigitte S Cypress, 'Rigor or Reliability and Validity in Qualitative Research: Perspectives, Strategies, Reconceptualization, and Recommendations' (2017) 36 *Dimensions of Critical Care Nursing* 253; Erlinda C Palaganas and others, 'Reflexivity in Qualitative Research: A Journey of Learning' (2017) 22 *Qualitative Report* 426.

Accordingly, this section is focused on some factors that pertain to the quality of research.⁴²⁷

4.8.1. Rigour

Unlike quantitative research, which is objective in nature, centring on the interpretation of numerical data, with a positivist epistemological stance, qualitative research is subjective in nature, being aimed at acquiring a deep analysis based on the participants' interpretation of social reality. When determining quality of quantitative research, concepts such as validity, reliability and generalisability are germane to the investigation.⁴²⁸ However, these are not deemed appropriate in qualitative studies.⁴²⁹

In qualitative research, different interpretations by researchers conducting a similar study may lead to different findings and conclusions.⁴³⁰ Moreover, as the epistemological and ontological perspectives have been shown to be distinctive to the institutional characteristics of each region, the results of this study cannot be generalised to other regions in Peru. For that reason, validity, reliability and generalizability are not suitable to factor to assess quality in qualitative research. To improve the quality of this study it is necessary to establish a set of procedures for pursuing the study and to use an audit-trail to explain the research process⁴³¹ that is found in qualitative rigour that considers qualitative research as a journey of exploration and discovery that does not lend to rigid boundaries.⁴³² Consequently, qualitative rigour ensures that the qualitative research process was carried out correctly.

In this study, the qualitative rigour of the research process includes the identification of each participant using a code based on the case study and

⁴²⁷ Yin, *Case Study Research : Design and Methods* (n 382).

⁴²⁸ Bryman (n 362).

⁴²⁹ Cypress (n 426).

⁴³⁰ G Easton and D Harrison, 'Temporally Embedded Case Comparison in Industrial Market Research' in Steve Fleetwood and Stephen Ackroyd (eds), *Critical realist applications in organisation and management studies* (Routledge 2004).

⁴³¹ Beverland and Lindgreen (n 425).

⁴³² Cypress (n 426) 4.

the main group of stakeholders where they belong which can be found in subsection 4.7.1. Similarly, the interview process was completed when saturation was reached on which no new information was provided by interviewees that indicates the interview process should finish.⁴³³ Moreover, the data analysis process follows a template analysis, discussed in section 4.6 that will ensure triangulation when two researchers crosscheck the elaboration of the coding templates obtained from the interviewees' responses. Finally, the methodology and theoretical framework could potentially be applicable to other Andean settings, such as Bolivia, parts of Chile and Ecuador, when analysing the relationships between native people and mining companies.

4.8.2. Reflexivity

The process of reflexivity is one of the quality criteria processes that enhances the trustworthiness of qualitative research,⁴³⁴ being defined a continuous process where the researcher develops a "self-aware analysis of the inter-subjectivity dynamics between researcher and the researched".⁴³⁵ Consequently, reflexivity allows the researcher to take into account his/her own role in the research process. That is, how assumptions, social origins, beliefs and values shape the research process and the construction of knowledge can be brought to light.⁴³⁶ In sum, reflexivity allows for the uncovering of the social-cultural influences on the researcher's understanding of reality.

The process of reflexivity is seen in this chapter when identifying the researcher's epistemological and ontological assumptions, the ethical issues and his role in the study when analysing the participants' interoperations of reality. Additionally, reflexivity is demonstrated during the data analysis and conclusion chapters, when analysing how the law, values

⁴³³ Saunders, Lewis and Thornhill (n 321).

⁴³⁴ Aileen Barrett, Anu Kajamaa and Jenny Johnston, 'How to ... Be Reflexive When Conducting Qualitative Research' (2020) 17 Clinical Teacher 9.

⁴³⁵ Linda Finlay, *Reflexivity : A Practical Guide for Researchers in Health and Social Sciences* (Linda Finlay and Brendan Gough eds, Blackwell Science 2003).

⁴³⁶ Palaganas and others (n 426).

and symbols are interpreted by the participants. That is, during this analysis the researcher endeavoured to make sure his own personal perspectives did not interfere with the participants' views on the three elements of New Institutionalism.

4.9. Ethical considerations

This study involved interaction with four different groups of participants, exploring their perceptions about the formation of social partnerships in the mining industry. This is a sensitive topic due to social conflict that has ensued between peasant communities, mining companies and government. Given the ethical implications of such an investigation an action plan was drawn up to mitigate the potential risks. Whilst the University of Westminster Research Ethics Committee approved the ethics application, owing to the potential harm that the researcher could have faced in the field, a Travel Insurance Request (TIR) form was required, approval for which was granted in November 2016.

4.9.1. Consent Form / Information Sheet

The researcher produced a consent form and information sheets in Spanish and English, which were shown and explained before each interview. These documents contained background information about the study, including its purpose, the fact that the interviewee could withdraw his/her participation at any time and offered the researcher's contact details. The researcher sent an electronic copy of both documents, if the interviewee was contactable by email, so they could read them in advance of the interview. The consent form and information sheet are provided in Appendices 4.4 and 4.5, respectively.

The participant could request a copy of their own transcript according to the consent form, otherwise it was not automatically provided. In the case of representatives from mining companies, consultancies, non-profit organisations, and government these were shared using the encrypted files stored in the university's network drive – H:drive.

In the case of representatives from peasant communities who wanted a copy of the transcript and who had an email account, the process was similar to the above. For those who had no email account, the researcher contacted Swisscontact, and Caritas, who work with peasant communities in Ancash region and who agreed to share the information on a confidential basis.

4.9.2. Anonymity

An important decision was not to use the real interviewees' names in the study in order to avoid any potential reprisal or embarrassment. Instead, their names were replaced by an alphanumeric code that could identify data, including the type of method used, group name and gender, as can be seen in Table 4.4.

Table 4.4: File name of transcriptions

Category	Description	Value
Group name	Two alphanumeric characters: The text character represents the sector where the interview belongs to; and the number represents the number of the interviewee.	Text character values: <ul style="list-style-type: none"> • C: Peasant community • G: Government • M: Mining Company and • T: Third party The number value starts from 1
Case study	Two alphanumeric characters: The text character represents the case study; and the number represents the number of the case study.	Text character values: <ul style="list-style-type: none"> • C: Case study The number value starts from 1 to 3 (as there are 3 case studies)
Example: The interviewee C10C3 represents a participant from a peasant community, who was the 10 th interviewee and part of the third case study		

4.9.3. Misquotation or misinterpretation

The idea of giving the transcriptions to the interviewees who requested them, was aimed at reassuring the participants that they had not been misquoted or misinterpreted, whilst also offering final opportunity to decline having the information they had provided being used. One of the interviewees considered that he had been misquoted in one of his contributions, despite the fact that the researcher read the specific section several times. This could have happened due to a participant forgetting what they had originally said, or there had been a change in their opinion in the meantime. After a conversation with the participant, there were minor changes in the transcription, and the interviewee accepted it.

4.9.4. Appreciating cultural differences when approaching native people

This researcher respected the comuneros' cultural protocols, the way that their knowledge is developed as well as their traditions and beliefs, with the goal of establishing a robust connection with them, thereby obtaining legitimacy as an outsider. Key to this was uncovering their interpretation of reality and thus, decolonising the research process. For example, during the interviews, the researcher asked whether they identified themselves as peasant communities or indigenous groups and as the former was the only answer received, this was subsequently used when referring to them and representatives from the nearby communities.

Furthermore, the researcher accepted invitations to attend a Sunday mass, walked up and down the mountains to meet participants during community assemblies and in some cases, shared food and drink during the interviews and participated in their celebrations for their anniversaries and patronal feasts. Whilst most peasant communities in Ancash region are bilingual, the researcher, being a native Spanish speaker, with only a basic knowledge of Quechua, was concerned that language could create a barrier to gathering their honest opinions. However, his attempt to learn Quechua from comuneros during informal meetings in the city square in the evenings

helped to build a strong connection, which resulted in some accepting their invitation to participate in an interview.

Another way to decolonise the research process in studies that involve the participation of indigenous / native people, centres on the establishing of a transactional relationship between comuneros and researcher that fosters trust and hence, legitimacy. This transactional relationship can foster the gathering of honest opinions during interviewing in that the participants will see the researcher as an agent who wants to help them to contribute to the addressing of their social issues.

Such a transactional relationship can take two forms. The first option could have been providing economic rewards for their participation during the fieldwork. However, this could have led to the creation of a superficial and dependent relationship, with the participants responding in ways that were geared towards pleasing the researcher. Another form of economic benefit is when native people are part of the research process who contribute to the development of the recruitment strategy and are appropriately rewarded.⁴³⁷

However, this approach is only suitable when there is funding available to employ such research assistants, which was not the case for the current inquiry. That is, the researcher did not provide any economic compensation, because it was a self-funded project, as he explained to the potential participants. In some cases, when the interview was in the city square, the researcher invited the interviewee to partake of a soft drink or a meal in a nearby café / restaurant. Another way that helped in creating trust was providing the researcher's business card embossed with an image of London, which some comuneros saw it as a souvenir as they had never seen that city before. These examples show how trust can be created through small acts of kindness when economic incentives are not available.

⁴³⁷ Bagele Chilisa, *Indigenous Research Methodologies* (SAGE Publications 2011).

The second and most effective way of developing a transactional relationship is by engaging in work that benefits the community, which demonstrates the comuneros' common good value, thereby creating a closer emotional and spiritual connection with them. This view is promulgating by Weijer and Anderson,⁴³⁸ who call for guidelines aimed at protecting indigenous people during research and performing acts that are useful to their community. The following narrative is an experience that took place during the study that relates to this point.

During the fieldwork, I went to Huallanca district to meet the community leader. His first reaction was aggressive towards me. He shouted and accused me of being a spy of Santa Luisa, the mining company.

When I took the four-hour journey back to my accommodation, I witnessed a car crash and the communal taxi that I had taken stopped to help the injured. This was one of the most shocking experiences that I saw in my life. It seemed that there was only one fatality, with the other passengers being generally alright. However, some were bleeding including two brothers and the father of the person who had died.

The following week, I went back to Huallanca and visited the leader to express my condolences and described in detail the events that I had seen unfold. The leader changed his previous attitude and was grateful, explaining that, unfortunately, the two brothers passed away and showed a picture of the funeral in the city square. He subsequently was very supportive in providing information about nearby community leaders and potential interviewees, whilst also accompanying me to the visit the community.

⁴³⁸ Charles Weijer and James A Anderson, 'A Critical Appraisal of Protections for Aboriginal Communities in Biomedical Research.' (2002) 42 *Jurimetrics* 187.

According to western studies, the researcher needs to respect the native people's traditions that remain unknown unless the researcher investigates them. This respect and politeness when approaching a potential interviewee does not always work when interacting with native peoples as their dynamics are different.⁴³⁹ In Huaripampa, the researcher waited outside a school, whilst parents were collecting their children. The researcher's aim was to ask whether they would be interested in participating in the study, but they said they were too busy and could not help.

After witnessing this, the receptionist approached the researcher to say that in this community you cannot 'ask for an interview', instead you need to tell them the day and time for an interview, otherwise they will reject the invitation. This dynamic was unknown by the researcher, as in western studies the researcher needs to respect the participants' decision whether or not to take part; he/she cannot impose an action.⁴⁴⁰

After this experience, the researcher realised he needed to reconsider the procedures when approaching the native people by questioning local inhabitant as to what actions were deemed polite or impolite, according to their customs. In other words, it came to be realised that the best way to proceed was to ask for advice for the locals, for their opinions would in some cases challenge what could be found in books.

4.9.5. Conflicts of interest

During the fieldwork in Lima region the researcher stayed in his family home, whilst during the fieldwork in Ancash region, he stayed in private accommodation near the peasant community where he carried out the interviews to avoid any apparent conflict of interest. The researcher explained very clearly this to the mining companies and peasant

⁴³⁹ Ambelin Kwaymullina, 'Research, Ethics and Indigenous Peoples: An Australian Indigenous Perspective on Three Threshold Considerations for Respectful Engagement' (2016) 12 *AlterNative: an International Journal of Indigenous Peoples* 437.

⁴⁴⁰ *ibid.*

communities so that they were not offended at the rejection of their offers of accommodation.

One of the participants was Mauro Espinoza Aguayo, who was the former owner and general manager of Paron S.A.C and the researcher's father. He participated in the pilot interview, however he did not intervene in the identification of potential interviewees from peasant communities to minimise the possibility of conflict of risk. Another action that was deemed appropriate for him to help was to support identifying mining company representatives.

4.9.6. Data Storage

The audio recordings, transcriptions from the interviewees and the file that contained the participants' personal identification along with the codes used to identify them were stored on three different password secured USB memory sticks. In accordance with the UK Data Protection Act (1998), the hard and electronic copies of the signed consent forms were scanned, and the folder was encrypted using the Pretty Good Privacy (PGP) encryption software available in an open source (GnuPG), which uses an algorithm to encode information and a key (private key) to decrypt the data.

The private key was stored in the researcher's laptop. However, the latter was not fully encrypted and for that reason, the researcher created a folder in his personal laptop and on the University of Westminster's H:drive to store the key. This folder was password protected as a minimum-security measure that aligns with the Code of Practice Governing the Ethical Conduct of Research 2016/17. The advantage of the H drive is that it is part of the UoW secure network protected by the firewall and is backed up on a daily basis; however, this drive is not encrypted, which is why the PGP was used. At the end of each day of interviewing, the researcher went to the closest town that had access to the internet to upload the data. The transcripts, the recorded audio interviews and any other data will be retained intact for a period of at least three years after publication. After this length of time the data is going to be deleted or destroyed.

To summarise, in this chapter, the methodological framework for carrying out the research is in alignment with the researcher's ontological and epistemological standpoints regarding how reality is considered. Reality is seen as being socially constructed by the participants when interpreting the meaning of CSR. The relationship with stakeholders has been presented along with explanations of research methods employed to gather these interpretations. The qualitative methods used include the use of observations and interviewing representatives of all stakeholders.

In addition, an indigenous methodology based on understanding oral stories and the participation in some daily activities, such as local festivities, was deployed to enhance the understanding of the social reality of the comuneros. It allowed for identification of their shared values through the creation of emotional and spiritual connections. All which made it possible to capture their honest opinions on the phenomenon of interest, namely CSR initiatives.

Finally, this chapter has outlined three case studies of small, medium and large mining companies, where partnership agreements were signed between them and comuneros (one easement agreement and two framework agreements) revealing the different perceptions on CSR initiatives that were inaugurated after negotiations.

Chapter Five - Analysis of Regulative Elements

This chapter presents an analysis of the findings related to the Regulative elements of institutionalism in Peru by assessing how an ecosystem of law including the Prior consultation, Work for taxes, Environmental, Peasant community and Customary law, shapes the understanding of CSR in Peru and the development of social partnership agreements in the mining industry. Therefore, this chapter explores the institutions, institutional clashes, and process of institutional change that are embedded in this ecosystem of law and supports the answer of the first sub research question.

5.1. Setting the scene

This chapter answers the first sub-research question by analysing the impact of the regulative elements of institutionalism on the understanding of CSR and the development of social partnerships between comuneros, mining companies and government. These elements are part of the pillars of institutional order and its main characteristics were covered in chapter three, subsection 3.6.5, including the institutions as well as the logic, clashes, and changes in the relationships between both groups regarding these, are probed.

To meet this purpose, a summary of the key characteristics of the regulative elements of institutionalism is presented in Table 5.1, and the analysis of this chapter is centred on participants' perceptions on the ecosystem of law, covered in chapter two, section 2.3, that promotes the application of CSR development of partnerships including: Prior Consultation Law, Work for Taxes Law, environmental regulation, Peasant Community Law, Customary Law and Laws that promote partnerships.

Table 5.1: Regulative elements of institutional order: adapted from Scott;⁴⁴¹ Ramsey, Leonel, Gomes, and Monteiro;⁴⁴² and Palthe⁴⁴³

	Regulative elements
Definition:	<ul style="list-style-type: none"> • Rules of society
Basis of Compliance	<ul style="list-style-type: none"> • Expedience
Basis of order	<ul style="list-style-type: none"> • Regulative rules
Basis of legitimacy	<ul style="list-style-type: none"> • Legally sanctioned
Symbolic systems	<ul style="list-style-type: none"> • Prior Consultation Law • Work for Taxes Law • Environmental regulation • Peasant Community Law • Customary Law • Laws that promote partnerships
Logic	<ul style="list-style-type: none"> • Instrumentality

5.2. Prior Consultation

As mentioned in Subsection 2.3.3, the Prior Consultation Law is an adaptation of the Indigenous and Tribal Peoples Convention, 1989. Since it was passed in 2011, its application in Peru has received strong criticism centred on the lack of clarity and poor implementation in protecting native and indigenous communities that are mostly located in Andean and Amazonian regions, where most of the extractive industry operations are located. In this section, institutions and institutional clashes pertaining to three distinctive areas are discussed in detail.

5.2.1. Historical neglect of peasant communities' rights

An important institution that was shared by all participants was the lack of a robust legal framework that protects comuneros' rights. This can be attributed to the recurrent poor governmental support that continued even

⁴⁴¹ *Institutions and Organizations : Ideas and Interests* (n 278).

⁴⁴² Ramsey and others (n 298).

⁴⁴³ Palthe (n 299).

after independence from the Spanish empire. In this regard, the scarcity of government representatives in remote Andean areas of Peru, where the majority of peasant communities reside, has led to poor understanding of comuneros' requirements by central government.

In addition to the weak legal framework, another institution shared by comuneros and third parties is the Peruvian government's favouring mining investment, which has been legitimated due to its adoption of the neoliberal economic model since the 1990s, which focusses on the promotion of foreign private investment and exploitation of natural resources for revenue generation.⁴⁴⁴ The institutionalisation of this economic interest has been supported by the development of a series of legal tools, such as legal stability agreements,⁴⁴⁵ that foreign private companies sign with the government to receive tax benefits and legal protection during the term of their investment.⁴⁴⁶ This view was shared by a representative of a third party:

“During the Fujimori government, big, extractive industry companies received benefits to invest in Peru, including the legal stability, on which regulation could not be changed for any reason, tax exemption and good terms for reinvestment. These benefits were harmful to the country [...]. This legislation has been detrimental to agreements between companies and communities, because the legislation has been in favour of the latter.” [T12C3]

5.2.2. Definition of peasant community and indigenous people

The narrative used to refer to peasant communities has resulted in the development of another institution, that of the self-identification of peasant community members as 'comuneros', rather than 'Indigenous people' or 'Indians'. This is due to the last two terms being considered to have derogatory meanings, as explained in Subsection 2.1.6. The view of comuneros as 'peasants', rather than 'indigenous people' or 'Indians was

⁴⁴⁴ Arellano-Yanguas (n 54).

⁴⁴⁵ ProInversion, 'Legal Stability Agreement' (*Investment Facilitation*, 2020)

<<https://www.investinperu.pe/modulos/JER/PlantillaStandard.aspx?are=1&prf=0&jer=5933&sec=17>> accessed 7 May 2020.

⁴⁴⁶ For a project in the mining and hydrocarbon sectors, it is required to contribute no less than US\$ 10 million to the National Financial System

shared by representatives of the mining companies, who argued that the Prior Consultation Law only protects communities from the Peruvian Amazon.

“The Peruvian government has never recognised peasants as indigenous people. So, the comuneros hold the view that the application of the Prior Consultation Law is only for indigenous people, and therefore, peasants cannot participate in this process.” [C7C1]

One state government interviewee argued that Andean peasant communities should not be protected by this law, because they do not meet the criteria for being classified as native people [G7C3]. Similarly, one mining company interviewee claimed that some peasant communities in Huaraz region, who were demanding to be part of the consultation process, did not fulfil the requirements to be officially recognised as such.

“In Huaraz [...] there are communities who share the same language and ancestral customs. However, in many cases there are communities that do not have them. They only they have the name and do not meet the characteristics of native people [...]. The government must participate more actively in providing more information. This is what is missing.” [M10C3]

The Prior Consultation Law defines indigenous and native people as Amazonian and Andean communities,⁴⁴⁷ respectively for that reason this law protects peasant communities. However, this classification has not been clarified by the government, as according to comuneros the law does not protect their rights due to their self-identification as ‘peasants’ rather than indigenous or native people. Consequently, the scope of this definition has led to an institutional clash between the views of the mining companies and government, who claim that some Andean communities should not be entitled to the right of consultation as they do not comply with the stated criteria, especially the spiritual and historical links with the territory and their way of living.

⁴⁴⁷ Article 3 of the rule of Law No 29785, subsection k.

5.2.3. Implementation and clarification of the Prior Consultation law

The institutions identified in Subsection 5.2.2 demonstrate not only the lack of a robust legal framework, but also, no clear understanding regarding the scope of the Prior Consultation Law, thus leading to a widely held view amongst comuneros, mining company representatives and third parties that the government does not have the capabilities to implement a clear regulatory framework to protect comuneros' rights. This is demonstrated by the existence of institutional clashes in three distinctive areas.

The first resides in the official mechanisms that identify the groups that hold the right to consultation. The Vice Ministry of Culture created an official national database that registers all the indigenous and peasant communities protected by the Prior Consultation Law. However, one third-party representative stated that the minimum requirement to be protected by this law was to have official recognition by the government regardless whether people were included in the national database. Neither the database nor the official recognition was accessible when the law was enacted, which created confusion and discontent amongst peasant communities. They believed they were not entitled to the right of consultation, a situation that was exploited by some mining companies to start operations without the need to go through a consultation process. As one third party representative explained:

“The Vice Ministry of Culture did not identify the indigenous populations in the Andean zone, where most of the mining companies operate [...]. The law indicates that it is not necessary to be included in a database for official recognition. However, with their being no clear documentation available on this matter, mining companies did consider it necessary to carry out a consultation process from the beginning.” [T8C2]

The second institutional clash is centred on whether the consultation process applies only to new mining projects or to all of them, including those that started operations before the law was enacted. On one side, the mining companies' representatives understand that the consultation applies in two circumstances: first, for new mining projects that started operations

after this law was enacted; and second, for current mining projects, even those that started operations before the law was enacted, that are in the process of expansion and require a new Environmental Impact Assessment (EIA). However, one mining company representative added that comuneros do not have a clear understanding of the law as they expected that all mining companies that are operating in the area would carry out the consultation process.

*“A peasant community thinks that they should be consulted before a mining project starts operations, but the legal process is different”
[M3C2]*

On the other side, comuneros perceive that the consultation process should be developed by all mining companies, even if they started operations before the law was enacted. This shows no clear understanding of the law as the consultation process applies only to projects that affect the indigenous and native people's⁴⁴⁸ collective rights, physical existence, cultural identity or qualitative of life demonstrated in the Environmental Impact Assessments (EIA). Not all mining projects can have a negative impact of these rights and therefore, some do not require carrying out a consultation process. This misunderstanding creates a tense relationship amongst the comuneros with the mining company and government. One comunero provided the example of two mining companies that started operations before prior consultation was enacted and he expected both companies to comply with the law.

"The mining companies Antamina and Contonga have been working in this area since many years ago, and there has not been any prior consultation at all, not even during the expansion process of either project." [C1C1]

This misunderstanding and discontent increases when the approved EIA of some mining companies is based on full-capacity operations of the mine, but some mining companies start operations with a low capacity and then increase it year on year. In such cases, some comuneros perceive that the

⁴⁴⁸ Article 2. Prior Consultation law

mining company is illegally expanding the mine by not producing a new EIA. This demonstrates a lack of clear communication between the mining company and comuneros in relation to the compliance of their operations according to the law. That is, what the comuneros see as an expansion, is actually the maximisation of capacity in different stages, which is within the law and therefore, does not require a consultation process.

The third institutional clash is in relation to the understanding of the right of vetoing mining projects. One comunero [C6C2] and government representatives agreed that the former perceived that comuneros could stop the approval of mining projects through the right of veto given through this law. However, the law specifies that after the consultation, comuneros do not have the final decision in case of no agreement between the parties, because it is the government that is entitled to impose a decision that protects the population.⁴⁴⁹ This situation has led to discontent and conflict between the comuneros and mining companies due to a perception that the government will favour the mining company's interests. One government representative pointed to the discontent that the lack application of the Prior Consultation Law has caused in relation to the right of veto of mining projects.

“The community believes that there is a right of veto and they can stop a project. However, this is only an informative process. The prior consultation has not helped to create a partnership [...] rather; it is creating a growing discontent amongst the people.” [G8C3]

Moreover, other authors agree that prior consultation does not give the right of veto to mining projects by comuneros. For example, La Rosa Calle agrees that the misunderstanding that this law gives the right of veto is one of the main issues in its application in Peru.⁴⁵⁰ The real purpose of the law is to provide ‘information’ about an extractive industry project, and its socio-

⁴⁴⁹ Article 23 of the rule of Law No 29785, subsection 23.3

⁴⁵⁰ *El Derecho a La Consulta Previa y Su Implementación En El Peru Según Las Reglas Legislativas y El Tribunal Constitucional*, vol 0 (Pontificia Universidad Católica del Perú (PUCP) 2012).

environmental and economic impact on the population, rather than being about obtaining approval from the community.

As a result of this misunderstanding regarding the scope of this law by comuneros, the latter perceives that the government favours mining projects. To change this situation, comuneros consider protest as a legitimate action to balance the government's power and protect comuneros' rights, with their having the right of veto of mining operations, as mentioned in Subsection 5.2.1. A representative of a mining company explained that the social conflict has increased the power of peasant communities in deciding whether or not to approve mining projects. Moreover, government representatives, who are subject to scrutiny in terms of how they deal with conflict, have had to follow comuneros' demands to restore peace in the area.

"In 2010, a sort of referendum was started, and the government's authority was removed, so that a community could decide if an extractive industry project should be approved. The government should do this [...] There are many political and extremist groups who have tried to influence this." [M6C2]

5.3. Works for Taxes Law

As mentioned in Subsection 2.3.5, the Work for Taxes law is a legal tool that promotes the construction of public infrastructure projects and provision of services where a private company is responsible for its execution in exchange for a reduction in annual taxes equivalent to the total value of the work.⁴⁵¹ This section identifies an institution, an institutional change process and institutional clashes relating to this law.

An institution that is shared by all the interviewees is that this legal tool supports the development of a partnership between mining companies and local and regional government that provides a fast response in the identification and

⁴⁵¹ Ministerio de Economía y Finanzas (n 118).

development of public infrastructure projects required by the population. Moreover, as one comunero pointed out, these projects will have a positive socio-economic impact through employment of the local community [C8C1].

However, not all participants had a positive perception of this law, as government representatives, such as in city councils, were going through an institutional change process. That is, when this law was enacted there was resistance from local and regional governments to using this legal tool for three main reasons:

First, there was the lack of governmental capabilities to manage public infrastructure projects, such as motorways, as pointed out by one government representative:

"The 'Works for Taxes' law brought good results. For example, the Catac-Cahuish- Succha road is one of the most important projects developed by Antamina, the regional and local governments. It has been built faster than expected [...]. The government does not have enough capabilities to develop these projects [...]. In the past, the issue was related to lack capability or willingness to approve the projects by the local government."
[G5C1]

The second reason would appear to be fear of corruption from excessive cost evaluation and poor monitoring of infrastructure projects, which could lead to new social conflict. However, this issue it was not raised by government representatives, but rather, by one third-party representative [T11C1].

The third reason was the unwillingness to adopt a long-term vision of development by government representatives. Regarding which, the law⁴⁵² specifies that the total cost of an infrastructure project covered by a private company can be repaid by the government through a deduction of corporate tax that can last for up to 10 years.⁴⁵³ However, the mayors as well as local and regional governors are elected

⁴⁵² Reglamento de la Ley N° 29230, Ley que impulsa la inversión pública regional y local con participación del sector privado, y del artículo 17 de la Ley N° 30264, Ley que establece medidas para promover el crecimiento económico.

⁴⁵³ The Regional and Local Public Investment - Treasury certificate (CIPRL) that companies received can be divided into instalments that can last up to 10 years for the total amount of the infrastructure project

to a term of four years,⁴⁵⁴ and for that reason, they rejected this legal tool as the newly elected government representatives may not have enough public funds to attend to the needs of local population, as pointed out by one of their number.

“A big problem for local and regional governments is that their income will be mortgaged, as they will use the income from taxes to repay the infrastructure project. For that reason, many mayors do not want to use this mechanism at the beginning of their government.” [G3C2]

Whilst the Work for Taxes Law promotes the development of public infrastructure projects to attend to the needs of population, it has also led to an institutional clash between mining company representatives and comuneros in relation to the identification of the stage within the life cycle of the mine when the company should be developing infrastructure projects using this legal tool.⁴⁵⁵

On the one hand, one comunero perceived that mining companies should develop infrastructure projects during the early stages of the mine life cycle, i.e. during exploration and development. Moreover, if the mining company had been operating in the zone for a long period of time, even before this law was enacted, the comuneros perceived that they should have developed more infrastructure projects, and as a consequence, this increased the perception of there being an historic debt to local communities. This view shows that comuneros would appear to have a short-term, transactional view of CSR initiatives that are seen as an instrument to cater for their socio-economic needs.

“Through this law, the Huari hospital will be built, and there are two or three projects that have been in evaluation this year, while mining operations have already been here for 20 years.” [C1C1]

On the other hand, mining company representatives perceived that the infrastructure projects should be developed during the middle stages of the mine life cycle as they will have profits.⁴⁵⁶ This is because during the first and last ones,

⁴⁵⁴ ONPE, ‘Procesos Electorales Y Consultas Populares’ (*Compendio Electoral Peruano - Edición Actualizada*) <https://www.web.onpe.gob.pe/modCompendio/html/procesos_electorales/Ley N 27867 Ley Organica de gobiernos regionales.html> accessed 9 January 2021.

⁴⁵⁵ The mining life cycle can be divided into four stages: exploration, development, operation and closure; British Columbia Mine Information (n 78).

⁴⁵⁶ Development (construction) and operation (production).

exploration and closure, respectively, the company does not have profits to invest on CSR initiatives, and consequently, it cannot use the Work for Taxes law. In contrast, in the operation stage, the company has profits that can develop projects using this law and can develop a long-term commitment to social investment.

“This mechanism is working well [...]. Most of these projects are from mining companies that are in the operation stage, but the companies that are in exploration and closure stages do not have those resources.”
[M10C3]

However, the law specifies that companies can use this legal tool to avoid paying corporate taxes even if the company does not have profits.⁴⁵⁷ Hence, mining companies should consider developing infrastructure projects, such as motorways, hospitals and reservoirs, during the early stages of the mine life cycle. So, in essence, the comuneros are right that the positive socio-economic impact of this law can be envisaged in the short-term as soon as mining companies start exploration activities and not just as a long-term goal.

Regardless of the stage within the life cycle of the mine when companies should develop infrastructure projects, there is another institutional clash relating to the job opportunities offered in these projects, as comuneros want jobs and improvement in their skills so as to be able to become involved in the infrastructure projects developed through this law. In contrast, mining companies perceive that hiring local, low-skill workers may be more expensive and delay the execution of the project due to the need to train this labour force. Instead, they prefer to hire contractors who can accelerate the execution of the infrastructure project. This aligns with the logic of mining companies to reduce costs and thus, increase profit over a short period of time. This issue was pointed out by a government representative, who spoke about the preference of construction contractors for hiring non-local labour with more expertise in the field.

⁴⁵⁷ ProInversion, ‘Obras Por Impuestos’ (*Preguntas Frecuentes - FAQs*)
<<https://www.obrasporimpuestos.pe/0/0/modulos/FAQ/FAQ.aspx?are=0&pfl=0&gru=108&jer=11&sec=0>>
accessed 5 December 2020.

“The issue with this law is that it limits the jobs available for the locals as the construction company brings its own staff. Neither 50% nor 30% are local workers.” [G5C1]

Moreover, the three agreements that are part of the case studies (Subsection 4.5.1) demonstrate that one of most common demands from comuneros is job opportunities at the mining company or in other industries such as construction, agriculture or tourism. Consequently, job opportunities need to be considered as part of the CSR initiatives.

In sum, the comuneros' preference to build infrastructure projects at an early stage within the life cycle of the mine, and the local labour hired for these projects, demonstrate a transactional view of CSR. That is, they will have a positive perception of projects, if they bring socio-economic benefits in terms of the construction of hospitals, motorways, public services as well as providing job opportunities in a timely manner. Failure to deliver these benefits will create discontent and subsequent, social conflict.

5.4. The Environmental Regulation

As explained in Subsection 2.3.2, the General Environmental Law enacted in October 2005 establishes the socio-environmental regulation that extractive industry companies should follow to protect the areas where indigenous and native communities reside. This section identifies the institutions and institutional clashes in relation to two distinctive areas as follows.

5.4.1. Compliance with Peruvian environmental regulation

Mining companies, comuneros and government have different perspectives relating to the effectiveness of environmental regulation in the mining industry that has led to an institutional clash. Some mining companies' representatives perceive that there is clear Peruvian environmental regulation and socio-environmental standards tailored to the Peruvian reality that guides the behaviour of mining companies, as pointed out by one mining company interviewee:

“current mining legislation obliges foreign investors to establish both social and environmental standards [...] that today is perfectly regulated, and large foreign mining companies that have produced pre-established standards, have to adapt these to the Peruvian reality.” [M5C3]

In contrast, some representatives from mining companies, government and peasant communities shared an institution pertaining to weak Peruvian environmental regulation. One government representative [G1C2] pointed out that there was not compliance with the environmental standards by mining companies in Peru. Moreover, one mining company representative [M11C1] stated that there was no clear monitoring process of the environmental standards, a view seconded by a comunero, who pointed out that it was not clear which governmental body was responsible for monitoring compliance with these standards, as seen in the following quote:

"I do not know to what extent those environmental standards are met, who controls these standards?" [C1C1]

The institutional clash regarding the effectiveness of environmental regulation is caused by the behaviour of two stakeholders, namely the government and the mining companies. On the one hand, there are weak governmental capabilities in reporting on the compliance of environmental standards, whilst on the other, the mining companies engage in creative compliance by finding legal artifices to avoid having to adhere with the regulation, as pointed out in Section 3.2. In particular, there has been the use of legal stability agreements signed between the government and mining companies to receive tax and legal protection for a period of time.

5.4.2. Application of international environmental standards

In addition to the level of compliance with Peruvian environmental regulation, another matter is the application of international environmental standards in the organisational field. This subsection analyses an institution shared by comuneros, an institutional clash between representatives from

the peasant communities, mining companies and government as well as an important characteristic of the institutional logic of mining companies.

Comuneros share an institution that foreign environmental standards protect native people's human rights and the common good; however, they are not aware of the details of these regulations. This perception is due to these international standards being developed in a different organisational field, where there is a strong emphasis on protecting native people's rights, rather than favouring mining investment.

"There are international standards that protect us, but due to our ignorance we do not how to use them." [C7C1]

This comunero's view reveals the existence of an institutional clash between their perception of the need for stricter environmental standards in Peru, and the government's institutional logic centred on the need for a weak legal framework, thus enabling the acceleration of mining investment, whilst at the same time reducing social demands.

Representatives from a mining company and the government agreed that the environmental regulation in the Peruvian mining industry has been poor during the last 15 years and for this reason foreign mining companies should bring their own stricter, environmental standards, as pointed out by a mining company representative [M5C3]. Moreover, a representative of the government pointed to the need for a supranational entity that monitors the environmental performance of the subsidiaries operating in host countries. For, this would promote better compliance with environmental standards.

"I believe that a foreign mining company should bring their country's environmental standards, and its country's government should monitor its compliance. For example, the Canadian government monitors the performance of Canadian companies operating in Peru." [G1C2]

Moreover, representatives from a mining company and a third party agreed that international environmental standards should be adapted to the Peruvian reality, as some mining companies would not be able to comply

with stricter and more expensive operations, which could, as a consequence, lead to more illegal mining, as pointed out by a mining company representative [M2C3]. This shows the institutional logic of mining companies as being centred on the flexibility of the regulation to allow for cost reduction and maximisation of profits, with the view that environmental standards are an economic burden that reduce long-term profitability.

One representative of a third party added that the adaptation of environmental regulation should be based on the macro economic and political situation of the country. Accordingly, if the country is in a financial crisis, then the government should relax the compliance with environmental regulation to promote mining investment.

"There are periods of high and low willingness to adapt international environmental standards into Peruvian reality [...]. It depends on the political and economic context [...]. Currently it is a very difficult context. Currently, there is a relaxation of environmental standards, because there is low mining investment." [T5C2]

5.5. Peasant Community Law

As mentioned in Subsection 2.3.4, the General Law of Peasant Communities (Nº 24656) establishes the guidelines for the constitution of a peasant community, its organisational structure and the selection process of its leaders.⁴⁵⁸ The comuneros interviewed did not share an opinion regarding this law, but during informal conversations some of them criticised leaders' decisions that protect their own interests. In this section, it is shown that representatives of the mining companies, government and third parties share three institutions.

The first institution is centred on the expectation that this law should empower comuneros as the key actors of their own development. This would remove private companies from having the central role in the formation of partnerships and moreover, giving equal importance to comuneros' decisions regarding what should

⁴⁵⁸ Reglamento de la Ley General de Comunidades Campesinas.

be prioritised regarding CSR initiatives. This active participation of peasant communities in partnership decisions is aligned to Hamann and Boulogne's views that partnerships should involve accountability and equal participation of the actors in the decision-making process.⁴⁵⁹ One mining company representative raised the matter of the need to change this law:

"The peasant community law is outdated, it is from 92 [...] We must try to promote [...] a new law with a modern approach, a vision of development and sustainability [...] that allows communities to be involved in their own development." [M5C3]

Whilst this law specifies the role of the community leader committee in promoting community development,⁴⁶⁰ it does not specify how they will develop the governmental capabilities to accomplish this objective. This scenario raises the question as to whether these capabilities should be promoted by the government or private companies interested in the formation of partnerships.

The second shared institution is the lack of a long-term vision regarding development due to the two-year government term of community leaders.⁴⁶¹ One government representative pointed out that this short period of governance does not guarantee a long-term working plan due to the potential rotation of leaders, who may not want to recognise the agreements signed by the former leaders. This can cause social conflict with the comuneros and consequently, damages the trust in the mining company representatives by them.

"The government term in a peasant community is for is for two years. For example, this year, the community approves the mining exploration project in their lands. When the government's term ends, and new leaders are elected, the latter may reject and deny previously signed agreements and the exploration project may need to stop [...]. This damages the presence of mining companies and peasant communities' trust in them." [G6C3]

The third institution is the need to change the organisational structure and selection process of peasant community leaders. The directive committee in peasant communities has been rotating the leadership amongst the same group of

⁴⁵⁹ Hamann and Boulogne (n 185).

⁴⁶⁰ Article 60, section b, Reglamento de la Ley General de Comunidades Campesinas.

⁴⁶¹ *ibid.*

comuneros, who use their roles as supposed representatives of communal interests to negotiate deals with mining companies that only favour their own individual interests and not those of the whole community. This was described as a 'dictatorship' by one representative of a third party:

“There is a need to revise the mining’s organisational structure and the governance of peasant communities, as the latter lives in a total dictatorship, because you need to negotiate first with the leaders, before going to a communal assembly, otherwise you will lose. There is no governance structure. That is a bad decision-making route and most of the mining companies do not want to improve.” [T3C1]

This view was shared by some comuneros during informal conversations, who criticised their leaders’ decisions as favouring their own interests. Moreover, some reported that much of their community was unaware of the negative environmental impact of mining operations. This scenario aligns with Mobus’s view that businesses can carry out operations that are against society’s expectations, with key members being unaware of the situation.⁴⁶²

5.6. Customary law

Customary law refers to the set of unwritten, traditional legal norms, that are different to the written law in force in a region or country. The two often co-exist and in some cases, there is conflict between these legal systems.⁴⁶³ The customary law of peasant communities was pointed out as being a key source of the institutional clashes between peasant communities and mining companies and the government. This section analyses the views of mining companies’ representatives towards the legitimacy and legality of comuneros’ traditional actions in terms of protest against mining companies as well as how the latter is using creative compliance to resolve this conflict and to obtain legitimacy.

⁴⁶² Mobus (n 220).

⁴⁶³ Fernando Bazán Cerdán, ‘Estado Del Arte Del Derecho Consuetudinario: El Caso de Perú’ (2005) 40 *Revista IIDH* 51 <<https://www.corteidh.or.cr/tablas/r08062-2.pdf>> accessed 5 December 2020.

The communal assembly is the entity where the traditional judicial system takes place. It is presided over by the leaders who have the authority to manage disputes and sanctions when comuneros do not comply with the community rules.⁴⁶⁴ There is an institutional clash when some comuneros' traditional actions and sanctions are considered legitimate under the comuneros' customary law, but illegal under Peruvian Civil Law. This situation increases the comuneros' perception that the law does not protect them and consequently, they challenge the Peruvian judicial system, which can impact on the creation of healthy partnerships. This clash of cultures was identified by one representative of a mining company.

“Laws are made in an office [...] they do not consider the customary law that does not always coincide with the Peruvian constitution. So, some actions that a community takes are legitimate, but not legal. For example, in peasant communities, infidels are physically punished which is approved in a communal agreement [...] This in the Peruvian constitution is a crime. So, there is a clash of cultures that does not promote the development of agreements.” [M7C2].

In order to resolve the institutional clash regarding actions that are legal and legitimate, mining companies demonstrate creative compliance as an institutional logic to obtain organisational legitimacy from comuneros, whilst simultaneously complying with their own policies and Peruvian law. For example, creative compliance is seen in the management of gifts that mining companies exchange with comuneros. The anti-bribery policy is clear in the identification of legitimate employee behaviour regarding the management of gifts from suppliers or colleagues, but these boundaries are not clear when interacting with peasant communities, where they are seen as key elements to obtaining legitimacy. This demonstrates that peasant communities give legitimacy not only in terms of complying with promises and behaviour according to their values, but also, with gifts as a physical representation of goodwill, if there is a tense relationship between the parties. This situation is pointed out by a mining company representative:

⁴⁶⁴ Antonio Alfonso Peña Jumba, 'El Derecho Constitucional a Una Justicia Comunal En El Perú. Una Aproximación Desde La Experiencia de Los Aymaras de Huancané, Puno' [2016] *Derecho & sociedad* 187.

“Our policy said that you can receive gifts only on your birthday and Christmas. [...] its maximum value should be \$30 US dollars. If somebody gives you an exorbitant amount, he may be interested in something else. Even for lunch, the policy says: if you can pay for your lunch, pay it. [...]. But in community relations, it is different. Perhaps, the policy is not so precise; basically, it works based on trust. For example, if there is a very tense relationship with peasant communities, the latter do not accept even a soft drink from you.” [M13C2]

Another example of the creative compliance of mining companies is seen in their response to the donations requests by local community government. Regarding which one interviewee pointed to such compliance in the application of anti-bribery policy by acceding to demands for donations. Under the anti-bribery policy of parent mining companies, these donations are seen as a bribe. However, to gain legitimacy from local government, especially from community leaders, it is important to attend to these demands. To this end, the mining companies find an intermediary, such as an NGO or a foundation, to receive the donation, which it will then transfer to the government by what are seen as legitimate actions.

“Companies develop policies including the anti-bribery policy [...] If the person who requests a donation is from the central government, for example, the MINEM, then we will not proceed further, otherwise we will break our code of conduct. [...] If the donation is requested by the local government, we have to analyse the situation. For example, if it is the mayor, we cannot do it. It has to go through an organisation that has no relationship with the government [...]. For example, an association of agricultural producers, we can work with.” [M10C3]

5.7. General perception of the law and company policies that promote social partnerships

In previous sections, the impact of an ecosystem of law that covers a specific area in the development of social partnerships, including the roles of key stakeholders, their rights, obligations and incentives, has been analysed. However, there is no specific law that promotes social partnerships between mining companies, government and civil society, and as a result, the Peruvian extractive industry has

been slow to engage in CSR policies relating to local development of the nearby communities.⁴⁶⁵

The increasing number of social conflicts caused by mining operations in the last decades has forced the government to change its understanding of development from economic to socio-economic and environmental growth so as to build greater harmony. In contrast to a reactive stance, there has been an improvement in the Peruvian regulation of social partnerships, which is redefining CSR and the role of stakeholders in the identification of its initiatives. During the last two decades there has been a slow institutional change aimed at resolving social conflicts and obtaining legitimacy for mining operations by the development of public-private partnerships between the government and companies, as pointed out by one mining company representative:

"The regulation on partnerships started in 2012 or 2013, when the government realised that many projects were stopped because of social conflicts [...]. Then, more regulation was raised, in parallel with environmental laws. Audits carried out by the Ministry of Energy and Mines began to be more demanding on social issues [...]. However, I do not know if companies are complying with the regulation." [M8C1]

Despite the governmental attempts to reduce social conflicts through public-private partnerships, there is a need to include the civil society to develop social partnerships and, consequently, find a holistic solution. However, there is still a lack of clear guidelines regarding the development of social partnerships in the mining industry, as pointed out by a representative of the government [G8C3].

Similarly, the government needs to improve their governmental capabilities to build a repository of signed agreements between mining companies and peasant communities; and analysing the lessons learned in the development of these partnerships. The improvement of these governmental capabilities will strengthen the regulatory framework aimed at protecting the comuneros' rights, as discussed in Subsection 5.2.3.

⁴⁶⁵ Arellano-Yanguas and Bernal-Gómez (n 194).

Currently, in the Environmental Impact Assessment (EIA), mining companies need to include a section with a preliminary agreement signed with the local community that gives the authorisation to operate in their lands.⁴⁶⁶ However, representatives from mining companies, government and third parties agreed that the government should go further, whereby a governmental body should have the capability to manage a lesson-learned repository of partnership agreements that gathers the positive and negative practices in the relationship between peasant communities and mining companies [M3C2]. This would support the improvement of regulation and avoid social conflicts in this organisational field. However, it is the feasibility of mining companies producing and sharing this lesson-learned document without revealing private information that is questionable.

“In the National Office of Dialogue and Sustainability,⁴⁶⁷ we try to register lessons learned about the process to solve social conflicts [...] knowing that not all cases are the same [...] but it will guide you about what to do in a specific circumstance [...] we are the dialogue office [...] and could [...] systematise each of these experiences.” [G1C2]

Whilst there is the inclusion in the EIA of preliminary agreements between mining companies and peasant communities, there are also some agreements that have been signed as upgrades after the approval of the EIA and are not monitored by the government. The non-compliance with these agreements has led to social conflict in some cases. To address this, some interviewees suggested the monitoring of the repository of signed agreements between mining companies and peasant communities that are not included in the initial EIA. i.e. those that have been subsequently changed. This implies that there is the need to change the requirements of the EIA,⁴⁶⁸ such that this involves a continuous process where the agreements between both parties signed after the approval of the EIA are appropriately updated. The need of this arrangement was pointed out by a representative of the government:

“Since 2014, this division of the MINEM has been monitoring the social commitments acquired by companies in the extractive industry that are not

⁴⁶⁶ Ley del Sistema Nacional de Evaluación de Impacto Ambiental y su Reglamento 2001 9.

⁴⁶⁷ This division is under the Presidency of the Council of Ministers, and seeks improvement in the dialogue between peasant communities, mining companies, and government as well as the management of conflict

⁴⁶⁸ La Ley N° 27446, Ley del Sistema Nacional de Evaluación de Impacto Ambiental y su Reglamento.

included in the Environmental Impact Assessment (EIA). Before, signed agreements between communities and mining companies that were not included in the EIA, could not be monitored by OEFA [...]. There have been agreements between two parties and the government never intervened [...]. So, what is the responsibility of a mining company outside the EIA? [...]. Now, we input these agreements into a database and we monitor them.” [G3C2]

In addition, the impact of social conflict on mining companies has resulted in some of them being more willing to develop policies that promote social partnerships with peasant communities and other members of the civil society. These developments relate to three key areas, as follows.

Firstly, mining companies have taken the initiative of establishing guidelines in the development of partnerships and CSR strategies that attend to the expectations and concerns of stakeholders, as pointed out by a representative of a third party [T9C1]. These strategies have been empowering comuneros' decision making process and actions aimed at promoting their own development, as explained in Section 5.5. However, these strategies require building the community leaders' governmental capabilities to include the views from all the groups within the community (youth, women, elderly and leaders) and their management of development projects as pointed out by a third party representative:

“Two conditions for the development of partnerships are: first, trust; second, empowerment so that the communities are aware that after the partnership is created, and after certain projects are completed, they can lead projects without the need of another stakeholder [...]. Third is consensus.” [T11C1]

Secondly, there has been the recognition of partnership agreements between mining companies and peasant communities as legally binding, as pointed out by a third-party representative [T1C3], which has been fostering trust and resulting in stronger commitment between the parties. The enforcement by law is centred on the written content of the agreements that in some cases can take the form of Framework Agreements (especially in mega mining projects) or the minutes signed (especially in small – medium size mining projects) after the meeting between comuneros and mining company representatives. A comunero agrees and adds:

“The minute book is legalised, but not its content. The information in the legalised agreement does not include all the content from the minutes. In my experience, the content of the minutes must be legalised and registered in the public records. We have signed a three-year agreement.” [C2C3]

Moreover, the comuneros' demands that the signed partnership agreements with mining companies are legally binding is demonstrated in the three case studies (subsection 4.5.1) as the easement agreement (Minera Paron); and the two framework agreements (Minera Antamina and Santa Luisa) were certified by a public notary that demonstrates the comuneros' preference to recognise these agreements as legally valid in the country and its use in use anywhere in the world.

Thirdly, in addition, to the enforcement by law of partnership agreements, another important element to build trust with peasant communities is the level of compliance with verbal agreements, which demonstrates the level of mining companies' commitment towards peasant communities' development. When honoured, this shows that mining companies do not need a written document to comply with their promises, that they share a real interest in the local communities concerns and that they are committed to addressing these. Moreover, the compliance with these promises is aligned to native people's traditions and therefore, when met results in gaining legitimacy, as pointed out by a mining company representative.

“Agreements can be written or verbal. Mining companies need to comply with the agreements, especially if they are verbal [...] and demonstrate they do not need a signed document to fulfil their promise.” [M5C3]

5.8. Addressing Sub-Research Question One - Discussion

How do the regulative elements of of the new institutional theory shape the dynamics between comuneros and mining companies?

In this chapter, how an ecosystem of law in Peru has had an impact on the development of social partnerships between comuneros, mining companies and

government has been analysed. A summary of the institutions, institutional clashes, logics and institutional change processes is provided in Table 5.2.

Whilst there is not a current law that promotes the development of social partnerships between companies and civil society, the Work for Taxes Law has been pointed to as the key legal tool that promotes an early meeting between peasant communities, mining companies and government. However, there is an institutional clash between the three parties regarding the meaning of the administration of justice, especially in relation to a balance between promoting mining investment across the mining cycle and protecting native communities' rights.

This situation has led to an environment of distrust in the last two decades, where comuneros consider protest as a legitimate tool to defend their rights. This has resulted in an increasing number of socio-environmental conflicts, which have become an effective mechanism to rebalance the government's power in favour of comuneros' rights, thereby leading to improvements in their socio-economic circumstances and the bolstering of environmental regulations to some extent, at least during the time of the fieldwork.

Given the tension between comuneros and mining companies, legislation that promotes social partnerships remains on the drawing board, there being only initiatives centred on public-private partnerships. There remains little participation of civil society, which demonstrates scarce governmental capabilities to introduce the unheard voices of native communities.

Consequently, the development of social partnerships has to rely on private initiatives undertaken by companies that follow their regulative elements of institutionalism, such as policies and procedures that guide their behaviour with peasant communities in order to gain legitimacy. However, mining companies and peasant communities have different normative elements of institutionalism that guide their behaviour. Given these circumstances, creative compliance is part of the institutional logic of mining companies to reconcile these differences and avoid social conflicts.

The call for establishment of a social partnership law requires the fundamental understanding of the systemic oppression of native people's rights so as to be able to identify the areas that need improvement, some of which are as follows:

First, there is the need for a better understanding and communication of comuneros' self-identification as native people and not indigenous ones along with the recognition that there is the need for society as a whole to be clearly informed that both groups are protected by law.

Second, there is a need to reconcile the different understanding in the administration of justice, where some legitimate traditional actions by local communities, such as protest, are not legitimate under Peruvian law.

Third, there is a need for a fair distribution of the decision-making power with peasant communities so that they can be the agents of their own development and thus, remove the mining company from having a central role in partnerships.

Fourth, an improvement in governmental capabilities is required to provide justice to peasant communities in Peru, to manage infrastructure projects to provide public services, and to install control mechanisms so as to avoid corruption in public industry.

Table 5.2: Summary of Regulative Elements of Institutionalism in the Development of Partnerships

<p>Institutions:</p> <ul style="list-style-type: none"> • A lack of a robust legal framework that protects comuneros' rights • The government's economic interest in favouring mining investment • Self-identification of peasant community members as 'comuneros' rather than 'indigenous people' or 'Indians' • The government does not have the capabilities to implement a clear regulatory framework to protect the comuneros' rights • Comuneros find protest as a legitimate form to balance the government's power • Work for Taxes promotes the development of a partnership • Foreign environmental standards are better and stricter than the Peruvian ones • The peasant community law should empower comuneros as the key actors of their own development • The Peasant Community Law lacks a long-term vision for development • The Peasant Community Law should change the organisational structure and selection process of peasant community leaders • The mining companies' compliance with verbal agreements is a key factor to build trust with comuneros
<p>Institutional Logic:</p> <ul style="list-style-type: none"> • Mining companies: Reduction of cost and maximisation of profits • Mining companies demonstrate creative compliance to avoid the full compliance of the regulation • Government: Rapid mining investment through a legal framework that encompasses fewer bureaucratic processes and reducing social demands
<p>Institutional Clashes:</p> <ul style="list-style-type: none"> • Some Andean communities in Ancash should not be entitled to the right of consultation as they do not comply with the native people's criterion • The official mechanisms that identify the groups that hold the right to consultation • The right of veto of the Prior Consultation Law • The stage in the life cycle of the mine when the consultation process should be carried out • The stage in the life cycle of the mine when the infrastructure projects should be developed • The job opportunities offered in infrastructure projects as part of the Work for Taxes Law • Lack of agreement on what is an effective environmental regulation in the mining industry • Some comuneros' traditional actions and sanctions can be legitimate under their customary law, but illegal under Peruvian Civil Law

Institutional Change:

- There has been resistance from local and regional governments to using the Work for Taxes Law
- The development of social partnerships as a tool to resolve social conflicts and obtaining legitimacy for mining companies

Chapter Six - Analysis of Normative Elements

Chapter six documents the results of the semi-structured interviews regarding the Normative elements of institutionalism in Peru, following the Schwartz' theory of Cultural value orientation that provides a coherent value categorisation that includes the following groups:⁴⁶⁹ Egalitarianism, mastery, hierarchy, harmony and embeddedness; that guides the principle of legitimate behaviour in the relationship between mining companies and comuneros in the understanding of CSR and development of social partnerships. Therefore, the analysis of the institutions, institutional clashes, and process of institutional change that are embedded in the stakeholders' value system support the answer of the second sub research question.

6.1. Setting the scene

In this chapter answers the second sub-research question by analysing the impact of regulative elements of institutionalism in the understanding of CSR and the development of social partnerships between comuneros and mining companies. These elements are part of the pillars of institutional order and its main characteristics were covered in chapter three, subsection 3.6.5. including the institutions, clashes and change in the relationships between both groups are probed. A summary of the normative elements of institutionalism is presented in Table 6.1.

Regulative elements of institutionalism comprise three components, including shared values, beliefs and expectations of the desirable behaviour that is expected from stakeholders. As mentioned in section 3.6.5, Schwartz defines values as a prioritised system of abstract beliefs and desirable goals;⁴⁷⁰ and consequently, these three components are interlinked, pointing out values as the

⁴⁶⁹ Shalom H Schwartz, 'A Theory of Cultural Value Orientations: Explication and Applications' (2006) 5 *Comparative Sociology* 137 <<http://www.deepdyve.com/lp/brill/a-theory-of-cultural-value-orientations-explication-and-applications-r03Z4t1pm0>> accessed 12 July 2020.

⁴⁷⁰ Shalom H Schwartz, 'Universals in the Content and Structure of Values: Theoretical Advances and Empirical Tests in 20 Countries' (1992) 25 *Advances in Experimental Social Psychology* 1.

key component that encapsulates the other two. For this reason, in this study, rather than analysing each of these three components, it is assumed that the stakeholders' values encompass the understanding of their beliefs and expectations. Hence, this section is centred on the perceptions of values pertaining to comuneros and mining company representatives that guide their behaviour in the understanding of CSR and the development of partnerships.

Despite both groups belonging to the same organisational field in Peru, they have different perceptions of the values that shape a complex inter-organisational relationship. These different values between stakeholders are not only seen in the same organisational field, but in different ones too, and critically across different countries. For example, there are studies that demonstrate that values can vary within the same country values, whilst nations with similar characteristics can also exhibit different values.⁴⁷¹

To understand the relationship between comuneros and mining company representatives as two organisations, a framework is required to analyse how external factors, including law and economic circumstances along with internal factors, such as historical background and ancestral traditions, shape the prioritisation of the organisational values that guide group behaviour. For the classification of values for this study, Schwartz's Theory of Cultural Value is drawn upon as he provides a coherent characterisation of values among people in society that can explain individual and group actions and goals within the same country.⁴⁷²

Moreover, according to the author, the value prioritisation varies according to the opportunities and pressures from the external environment.⁴⁷³ Consequently, this theory allows for the study of how the external and internal factors develop

⁴⁷¹ Vas Taras, Piers Steel and Bradley L Kirkman, 'Does Country Equate with Culture? Beyond Geography in the Search for Cultural Boundaries' (2016) 56 *Management International Review* 455 <<https://link.springer.com/article/10.1007/s11575-016-0283-x>> accessed 12 July 2020.

⁴⁷² Shalom H Schwartz, 'A Theory of Cultural Values and Some Implications for Work' (1999) 48 *Applied Psychology* 23 <<http://www.catchword.com/cgi-bin/cgi?body=linker&ini=xref&reqdoi=10.1080/026999499377655>> accessed 12 July 2020.

⁴⁷³ Shalom H Schwartz, 'Studying Values: Personal Adventure, Future Directions' (2011) 42 *Journal of Cross-Cultural Psychology* 307 <<http://journals.sagepub.com/doi/10.1177/0022022110396925>> accessed 12 July 2020.

institutions within subgroups in society, which can generate tension between them that results in an institutional change process in the organisational field. Accordingly, Schwartz's Theory of Cultural Value is suitable for studying the relationship between mining companies and comuneros.

This chapter investigates the institutions along with the institutional logic, clashes and change regarding four of the most prominent cultural value orientations and its components demonstrated in the relationship between comuneros and mining companies, as emerged from the interviews: egalitarianism, mastery, hierarchy and harmony.

Table 6.1: Normative elements of institutional order adapted from Scott;⁴⁷⁴ Ramsey, Leonel, Gomes, and Monteiro,⁴⁷⁵ and Palthe⁴⁷⁶

	Normative elements
Definition	<ul style="list-style-type: none"> • Shared conceptions of the preferred / desirable behaviour
Basis of Compliance	<ul style="list-style-type: none"> • Social obligation
Basis of order	<ul style="list-style-type: none"> • Binding expectations
Basis of legitimacy	<ul style="list-style-type: none"> • Morally governed
Symbolic systems	<ul style="list-style-type: none"> • Value orientation⁴⁷⁷ and values <ul style="list-style-type: none"> ○ Egalitarianism: trust, equality and social justice. ○ Mastery: Ambitious and choosing own goals ○ Hierarchy: Humbleness⁴⁷⁸ and social power ○ Harmony: Unity with nature ○ Embeddedness: Respect for tradition
Logic	<ul style="list-style-type: none"> • Appropriateness

⁴⁷⁴ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

⁴⁷⁵ Ramsey and others (n 298).

⁴⁷⁶ Palthe (n 299).

⁴⁷⁷ Schwartz, 'A Theory of Cultural Values and Some Implications for Work' (n 472).

⁴⁷⁸ Schwartz refers to being humble, but in this study this value will named as 'humbleness'

6.2. Egalitarianism

Egalitarianism is a value orientation that recognises that people share basic common interests, they are moral equals and is concerned with promoting collaboration and the welfare of others.⁴⁷⁹ Schwartz identifies different values within this value orientation, from which three values were identified by interviewees, including, trust, equality and social justice, regarding the challenges to developing social partnerships in Ancash region.

6.2.1. Trust

Trust is defined as a “firm belief in the integrity, ability, or character of a person or thing; confidence or reliance”.⁴⁸⁰ To understand the forms of trust in this organisational field, four types of trust identified by Stern and Coleman are drawn upon: dispositional, rational, affinitive and procedural.⁴⁸¹ This classification offers a robust framework that has been applied in studies relating to collaboration in natural resource management that involves stakeholder participation.

6.2.1.1. Dispositional Trust

Stern and Coleman argue that dispositional trust pertains to a context-independent tendency to trust others based on factors such as authority and legitimacy.⁴⁸² The comuneros demonstrated a consistent stance of distrusting mining company representatives owing to past events, as explained in section 2.1.5. So, it is important to identify the practices that can build trust, thus facilitating the development of social partnerships.

⁴⁷⁹ Schwartz, ‘A Theory of Cultural Value Orientations: Explication and Applications’ (n 469).

⁴⁸⁰ The free dictionary, ‘Trust’ (2019) <<https://www.thefreedictionary.com/trust>> accessed 18 September 2019.

⁴⁸¹ Marc J Stern and Kimberly J Coleman, ‘The Multidimensionality of Trust: Applications in Collaborative Natural Resource Management’ (2015) 28 *Society and Natural Resources* 117 <<https://doi.org/10.1080/08941920.2014.945062>> accessed 12 July 2020.

⁴⁸² *ibid*; Michael Siegrist, Heinz Gutscher and Timothy C Earle, ‘Perception of Risk: The Influence of General Trust, and General Confidence’ (2005) 8 *Journal of Risk Research* 145 <<https://www.tandfonline.com/doi/abs/10.1080/1366987032000105315>> accessed 12 July 2020.

It is in this context that a shared institution by interviewees is that past events have had an impact on the lack of trust by native Andean population towards persons outside their communities, such as mining companies and government, who are perceived as trying to take advantage of them. The colonisation represents a key moment when comuneros' trust was lost, as Spanish traditions were imposed, including the Roman Catholic religion, the mother tongue and customs, whilst gold and silver were taken from their sacred mountains.

This context has created a predisposition of the Andean population to distrust mining companies. Regarding which, one third-party interviewee [T12C3] reported how at a dialogue table in the Cuzco region, a comunero had claimed that Francisco Pizarro, the leader of the Spanish colonisers, was responsible for the current conflict between a mining company and his community. Moreover, another third-party interviewee highlights the predisposition of peasant communities to distrust other people:

“The Andean person is suspicious and spiteful, and it is difficult to build trust with them.” [T3C1]

Other key past events include the ongoing lack of government support in the provision of basic services to peasant communities, as pointed out by a government representative [G8C3], especially owing to the development of a neoliberal economic model during the 1990s, which favours mining investment in Ancash region to the detriment of comuneros' rights and wellbeing. This is supported by Arellano-Yanguas, who argues that the rural population in Peru does not trust local and national political organisations due to the lack of stability of public policies and the corruption of the authorities.⁴⁸³ Moreover, a comunero points out how during Fujimori's government in 1990s, mining

⁴⁸³ Javier Arellano Yanguas, *Minería Sin Fronteras. Conflicto y Desarrollo En Regiones Mineras Del Perú* (IEP, PUCP, UARM 2011) <<https://iep.org.pe/fondo-editorial/tienda-virtual/mineria-sin-fronteras-conflicto-y-desarrollo-en-regiones-mineras-del-peru/>> accessed 16 August 2020.

companies acquired communal lands at a cheap price to develop mining projects.

“During the government of Fujimori, Antamina [mining company] bought the lands at a very low price, as the landowners did not know the real value of them. They were offered 50, 100 or 200 thousand dollars for a hill that they thought did not have that value and they only used for their cattle. The comuneros bought cars, houses, or they emigrated to other places. With time, the cars broke down or crashed. Currently, many comuneros are demanding that Antamina give them an additional, fair fee, for the sale of their lands.” [C9C1].

These past experiences have meant that comuneros perceive persons and organisations that are not from their community as having a lack of benevolence, that is, their behaviour is not considered being concerned about the wellbeing of others.⁴⁸⁴ It has been argued that benevolence is a key factor in developing trustworthiness.⁴⁸⁵ Hence, mining companies and government should develop this trait to have a better relationship with comuneros and thus, ensure effective social partnerships.

On the other side, mining company representatives distrust some community leaders based on past experiences involving behaviour by the latter aimed at agitating comuneros into stopping mining operations through conflict in their demand for social justice. One example of this confrontational behaviour, is when some community leaders fanned the flames by imposing 50-soles fines or water service cuts as a penalty to those comuneros who did not want to protest, as pointed out by a mining company representative [M10C3]. Another source of mining companies' distrust of community leaders is regarding the latter increasing their demands in relation matters that have not been stipulated in the signed agreement between both parties. For example, one mining company representative pointed out that some community leaders increased the demand for economic compensation due to the

⁴⁸⁴ Roger C Mayer, James H Davis and F David Schoorman, 'An Integrative Model of Organizational Trust' (1995) 20 The Academy of Management Review 709.

⁴⁸⁵ *ibid.*

negative environmental impact caused by mining companies, but this was not part of the original agreement [M8C1].

However, some interviewees suggested that there was a process of institutional change at hand. That is, comuneros' predisposition to distrusting mining companies and the government varied according to the distinctive past experiences of each region. This is supported by Stern and Coleman,⁴⁸⁶ who agree that personal histories and environmental conditions may influence the disposition to trust. Regarding which, one mining company representative pointed out that comuneros' perception of their activities varied according to each region.

“Peasant communities’ view on mining investment in Peru depends on the region where they come from [...]. The idiosyncrasy of the communities in the Andean regions from the north, south and centre is different to the Amazon [...]. For example, mining has been present in Cajamarca since the Viceroyalty; however, exploitation had a negative social impact as Cajamarca should have been more developed.” [M4C1]

6.2.1.2. Rational Trust

Stern and Coleman argue that rational trust is developed based on the estimation of the expected outcomes that a trustor, who is the person who trusts the trustee, expects to receive and this is calculated based on past performance.⁴⁸⁷ In this study, comuneros (trustors) can be seen to have developed rational trust in mining companies (trustee) through a positive perception of the CSR initiative outcomes developed through social partnerships. The study findings show a process of institutional change that favours not only short-term, but also in some cases long-term impact of CSR initiatives that will develop a robust rational trust in mining companies.

There were some participants who favoured the short-term impact of CSR initiatives aimed at attending to their urgent socio-economic needs.

⁴⁸⁶ Stern and Coleman (n 481).

⁴⁸⁷ *ibid.*

For example, one comunero [C10C3] pointed out that job opportunities would develop trust in mining companies, because they could cover their family needs. A mining company representative adds that comuneros expect mining companies to provide a positive contribution to the community at a short time.

"The rejection from peasant communities, that passes from generation to generation, creates a certain aversion to mining [...] For that reason, communities will not give too much time to mining companies to demonstrate a good intention. Gaining the community's trust has been a long process." [M4C1]

Others interviewed argued that the short-term impact of CSR initiatives only generated a temporary, transactional relationship for meeting comuneros' economic needs. Donations or infrastructure projects do not develop sustainable trust, as pointed out by one mining company representative [M13C2], but rather, a dependent relationship between the mining company and the peasant community, as pointed out by a third-party representative [T1C3]. Moreover, one comunero pointed to the development of rational trust in mining companies owing to the positive economic impact of CSR initiatives, but also took the view that such trust was quite fragile.

"Our community works in the mining company only for interest and not because we are happy with them. There are some comuneros who want to sell part of our land to mining companies, but those are community lands." [C2C3]

Hence, for solid partnerships, this requires mining companies developing long-term robust CSR initiatives, for these can engender trustworthiness,⁴⁸⁸ which have been seen in the development of comuneros' entrepreneurial capabilities. One third-party interviewee added that, not only was building capabilities of peasant communities important, such that they could be responsible of their own development

⁴⁸⁸ Mayer, Davis and Schoorman (n 484).

and thus, contribute to the development of rational trust, but also, the participation in traditional festivities was key too.

"CSR initiatives can greatly help build trust, but if you understand them as a job opportunity, it will not be enough. We need to understand them as processes including capacity building and cultural activities." [T8C2]

6.2.1.3. Affinitive trust

Stern and Coleman argue that affinitive trust focusses on the trustor's perception of the qualities of the trustee, including integrity and benevolence, which demonstrate the acceptance of shared values and the intention of offering positive good to others, respectively.⁴⁸⁹ The study findings show a process of institutional change between comuneros and mining companies towards developing affinitive trust by following shared values and pursuing the common good across stakeholders.

Comuneros expect mining companies accept their values, including the promotion of dialogue and compliance with promises, which guide their logic of behaviour. The promotion of dialogue is demonstrated when sharing their expectations and concerns about the environmental impact of mining operations, as pointed out by one of their number [C11C3].

The result from this dialogue can lead to verbal and/or non-verbal agreements, which the comuneros expect the mining companies to uphold, thereby demonstrating a real commitment to peasant communities' expectations and concerns, thus leading to the development of affinitive trust.

"6 or 7 years ago, I had a meeting with the comuneros from the Tutupampa community [Huanuco region], who did not want to talk to the mayor and mining companies. But when I met the community, it

⁴⁸⁹ Marc J Stern, 'The Power of Trust: Toward a Theory of Local Opposition to Neighboring Protected Areas' (2008) 21 Society and Natural Resources 859 <<https://www.tandfonline.com/doi/abs/10.1080/08941920801973763>> accessed 12 July 2020; Stern and Coleman (n 481).

was very easy to reach them, but you needed to comply with your promises and thus, demonstrate that you are speaking the truth.” [C3C2]

Whilst mining company representatives accepted that verbal and written agreements were both legitimate, they recognised that further gestures needed to be made to gain affinitive trust. As one mining representative put it:

“This is a powerful gesture; for example, one mining company uses an ambulance to transport comuneros to the hospital, without signing an agreement for this service. If a mining company complies with this, they will build a powerful relationship.” [M5C3]

Mining companies have been going through a process of institutional change to understand and comply with comuneros' shared values. For that reason, mining companies have been developing different practices to understand these values. For example, some mining companies have been hiring comuneros to become advisors or even representatives of the company when negotiating with nearby communities to obtain their permission to operate in their lands as this person share the same values and understand the comuneros' institutions that can guide companies in the development of social partnerships.

However, this practice brings forth an institutional clash between comuneros centred on their level of independence when taking decisions and the sense of community that will best benefit it as a whole, as pointed out by a comunero [C3C2]. This situation raises distrust amongst comuneros towards other peers from other regions, and Limenians, as pointed out by a mining company representative [M13C2]. Moreover, a third-party representative affirms that peasant communities see a comunero working for a mining company as a traitor that will not look for the best of the community.

“In any community, the comuneros will say: ‘he sold his vote to the mining company’ or ‘the leader has allied with Antamina company that is why there are no benefits to the community.’” [T4C2]

The participants share an institution that comuneros develop affinitive trust in foreigners, because they belong to a different organisational field, through which they share the value of complying with promises and have stronger environmental regulations that protect comuneros rights, as mentioned in Subsection 5.4.2. In contrast, Peruvians are not willing to help comuneros as pointed out by a comunero [C14C3]; and a government representative [G2C1]. This perspective was supported by a third-party representative, who pointed out:

“Peasant communities distrust mining companies, but we [...] as an international cooperation, we are more accepted than an official of the Ministry of Energy and Mines.” [T11C1]

Other example that demonstrate that mining companies are going through process of institutional change to reconnect with comuneros' values is seen when mining companies have been changing their business practices centred on productivity and the short-term generation of profits that only benefits internal stakeholders, as pointed out by a mining company representative [M7C2], towards practices that will contribute to the sustainable development external stakeholders, including employees, contractors and the community, as agreed by a mining company interviewee [M1C1]. This demonstrates a real intention from mining companies to attend external stakeholders' needs by developing partnerships with peasant communities to tackle society's social issues, and at the same time providing benefits to internal stakeholders.

The mining company representatives' compliance with the comuneros' shared values and the collectivist principle of the common good, is supported by showing charisma through affective or emotional interactions with comuneros.⁴⁹⁰ For example, when mining companies invite comuneros to observe their mining activities and their participation

⁴⁹⁰ Mayer, Davis and Schoorman (n 484).

in communal festivities, they are fostering legitimacy, as peasant communities will perceive that mining companies are adopting their shared values. One mining company interviewee pointed out that some comuneros participate in mining exploration activities by taking samples or sharing food and informal conversation [M2C3]. Consequently, these informal meetings are as important as the formal ones in the community hall to develop affinitive trust.

However, the participation of mining companies in communal festivities through donations will not develop affinitive trusts, instead it creates a dependent relationship as comuneros get used to receive them and their demands can increase. More critically, a donation does not involve a physical participation in communal festivities that can be understood as lack of respect to the peasant community's traditions as there is no interest to engage with them. This situation is pointed by a mining company interviewee who suggests the practice of dialogue to make comuneros understand about the negative impact of recurrent donations in their traditional festivities.

“A mining company must participate in cultural customs. But if every year the company will be the ‘godfather’ [steward of the patronal feast], it will create dependency [...] When there is trust, you can have an honest conversation with the comuneros and tell them that there will be dependency, if the company supports the patronal feast every year.” [M13C2]

In the attempt to comply with comuneros' values, mining companies are going to a process of institutional clash when their promises are against their internal regulative elements of institutionalism, such as policies that challenge the compliance of their promises. Regarding which, immediate job opportunities offered to comuneros in partnership agreements can be problematic when internal human resources policies indicate that any candidate should go through a recruitment and selection process that can take time, situation that brings discontent by comuneros perceive that the ones who live near mining company operations, are entitled to have access to immediate jobs.

Consequently, this situation can lead to social conflict, as pointed out by a mining company representative [M8C1]. To resolve this difference between the normative and regulative elements of institutionalism, mining companies practice their creative compliance to comply with comuneros' demands and at the same time, meet mining companies' internal policies.

6.2.1.4. Procedural trust

Stern and Coleman argue that procedural trust is developed through the use of legitimate control systems in the form of procedures or contracts that determine whether or not the trustee (mining company) is complying with the rules of appropriate behaviour and therefore building trust.⁴⁹¹ As comuneros (trustor) do not have access to the corporate governance, they evaluate the corporate procedures according to the mining companies' past and current actions. However, the partnership agreement between both parties represents an opportunity to establish the procedures that contain the mining companies' appropriate behaviour and responsibilities towards the peasant community.

This is demonstrated when interviewees shared an institution, whereby procedural trust was developed when mining companies complied with the agreements signed with comuneros. However, procedural trust is challenged when mining companies change ownership and the new owners do not want to acknowledge these agreements, as pointed by a government representative [G1C2]. Moreover, according to one mining company interviewee the agreements require clarity regarding the definition of terms and scope of mining companies' intervention in the development of CSR initiatives.

“I think the commitments must be complied with; they should not change either down or up [...] I have seen signed agreements by general managers of companies who promised to maintain the road for life. What does maintenance mean? What does it mean for life?”

⁴⁹¹ Stern and Coleman (n 481).

The life of the mining project or forever? That lack of precision in the agreements generates discomfort.” [M9C1]

6.2.2. Equality

The second component of egalitarianism is equality, which is defined as “the right of different groups of people to have a similar social position and receive the same treatment”.⁴⁹² Equality is a key value that guides the comuneros’ behaviour in society. However, the socio-economic impact of mining companies has caused comuneros go through an institutional change process in two areas that have an impact in the development of partnerships.

The first institutional change is seen in the type of economic organisation of comuneros. Traditionally, the economic organisations of peasant communities follow a collectivist form of society, where they share working activities that benefit the socio-economic development of the whole community, including the construction and maintenance of bridges, irrigation channels and roads. Nevertheless, interviewees agreed that there has been a process of institutional change in this tradition towards an individualistic society as pointed out by a third-party representative [T10C1], where each comunero looks after their own interest as there is an environment of jealousy in achieving a higher socio-economic development than other comuneros.

“When I left the community in 1995, it was a solidarity community that looks for the common good and very friendly. But when I came back in 2010, I found a total distrust even within your own family, selfishness and an interest in satisfying individual personal needs.” [C7C1]

The second process of institutional change that comuneros go through is the equal decision-making power of the whole community and not just the leaders playing this role when developing the partnership, which denotes a certain level of mistrust to the group of community leaders. A comunero

⁴⁹² Cambridge Dictionary, ‘Equality’ (2019)
<<https://dictionary.cambridge.org/dictionary/english/equality?q=Equality+>> accessed 21 September 2019.

points out this issue and demands that the whole community should participate in the negotiation.

“Many times, these consultations are made with leaders, with authorities, but in reality, the population as a whole does not participate in some cases.” [C1C1]

However, this situation can lead to delays in the negotiations between the parties and an increase of costs, which can be against the institutional logic of companies centred on cost reduction and maximisation of profits, and therefore a reluctance by mining companies to follow this practice.

Similarly, a mining company representative agrees that all participants in the partnership should have the same level of decision-making power [M7C2]. However, this scenario is not achievable due to two distinctive factors.

First, both parties have different level of access to resources as the mining companies have more economic, technical and legal support, which means they can dictate the agenda in the partnerships; meanwhile comuneros do not have that those resources.

Second, some mining company representatives involve in the negotiations do not have the decision-making power to approve immediately CSR initiatives requested by comuneros and they need to request authorisation to their superiors, as pointed out by a mining company interviewee [M8C1]. For that reason, comuneros perceive mining companies do not treat them as equals, because they send a representative who cannot take immediate decisions. Similarly, this denotes a clash between the regulative and normative elements of institutionalism, whereby companies follow the internal procedures to escalate authorisation, whilst at the same time complaining about the comuneros' values.

6.2.3. Social justice

The third component of egalitarianism is social justice, a value that is defined as the fair “distribution of wealth, opportunities, and privileges within a society”.⁴⁹³ Subsection 5.2.1, points out that there is a lack of a robust legal framework that protects native people’s rights, causing comuneros to have social justice as one of the key values to have access to economic and social development.

In developing countries where there is a scarce presence of government to provide public services, mining companies have been characterised by their social justice role when developing CSR initiatives that tackle poverty, illiteracy, and health, in the form of infrastructure projects and campaigns. This social justice role is due to comuneros’ expectations that mining companies’ CSR initiatives will solve their economic needs through the provision of job opportunities with a higher payment than in agricultural jobs as pointed out by a comunero [C6C2]. This view is supported by a mining company representative who states:

"Unfortunately, peasant communities have so much hope, expectations that mining companies will give them a job and will solve their problems." [M8C1]

However, there has been an institutional clash regarding the level of compliance of the mining companies’ role as an agent of social justice in peasant communities. In one hand, there are some views who claim that mining companies do not comply with its social responsibility. Regarding which, one government representative points out that in San Marcos district, is not complying with its CSR plan to the community as there is not a clear communication about this [G5C1].

Others claimed that mining companies have partially complied with its social justice role, as some CSR initiatives are developed only in the nearby communities to mining operations but not in other ones that are not closed

⁴⁹³ Lexico, ‘Social Justice’ (*Lexico dictionary*, 2019) <https://www.lexico.com/en/definition/social_justice> accessed 21 September 2019.

to the mine. As a consequence, these CSR initiatives had a low positive socio-economic impact and is it not what It was expected, as pointed out one comunero:

“Santa Elena mining company has been working in Huallanca for more than 50 years. They have done [some CSR initiatives] in some communities near their operations, around a one-kilometre perimeter. Those communities should have developed more, but they are at the same level as other communities.” [C4C2]

Moreover, there is a clash in the expectations on the purpose of the social justice role of mining companies that weakens the sustainability of the partnership. Some interviewees claimed that mining companies use their social justice role to create a dependent relationship and control comuneros' decisions. They impose CSR initiatives that they perceive will develop the community without taking in consideration the comuneros' views as pointed out by a mining company interviewee [M2C3]. Meanwhile, other mining company representatives claim that mining companies' social justice role in peasant communities is part of the social responsibility [M1C1].

6.3. Mastery

Mastery is the second value orientation that refers when individuals achieve group or personal goals through self-assertion and the management of their social reality.⁴⁹⁴ Within Mastery, Schwartz identified different values, from which interviewees identified two values that are important in peasant communities, including, ambitiousness and choosing own goals. The mastery value dimension of peasant communities determines the level of commitment to accomplish their personal or group goals when working in the partnership.

⁴⁹⁴ Schwartz, 'A Theory of Cultural Value Orientations: Explication and Applications' (n 469).

6.3.1. Ambitiousness

Ambitiousness is defined as “Having a strong wish to be successful, powerful, or rich”.⁴⁹⁵ Comuneros demonstrate an ambitiousness value during the partnership negotiation with mining companies to obtain the best result that accords with their own interests. When comuneros do not meet their goals during the negotiation with mining companies, comuneros perceive an unfair decision-making process. Moreover, when the final decision in the negotiation comes from an independent organisation, the comuneros will not accept this outcome, as comuneros will criticise its impartiality of this independent organisation, as pointed out by a mining company representative [M10C3].

One comunero pointed to a clash of institutional logics between mining companies' ambition to avoid any interruption in mining operations that would lead to increased costs; and peasant community counterparts demanding CSR initiatives that cover the socio-economic and environmental needs of the community. For that reason, comuneros need to be persistent in their demands as pointed out by a comunero.

“I believe that private investment will bring development [...] but will depend on the negotiation [...]. Companies always seek for their own benefit; they do not want to give money for free. For that reason, peasant communities must demand things.” [C1C1]

From interviewees' responses, it is noticeable that comuneros demonstrate two levels of ambition during the negotiation with mining companies: a community-wide level, aiming to achieve goals that protect their own community needs and not from nearby peasant communities; and the group level, where they sought to benefit the economic group to which they belonged. The responses did not show an individual ambition of comuneros, and for that reason the next section will analyse the two levels mentioned before.

⁴⁹⁵ Cambridge Dictionary, 'Ambitious' (2019)
<<https://dictionary.cambridge.org/dictionary/english/ambitious>> accessed 22 September 2019.

6.3.1.1. Community-wide ambition

Comuneros demonstrated a community-wide ambition during the partnership negotiation with mining companies, as they are seeking for the best outcome for their own community. This ambition creates a sense of competition between peasant communities to host mining operations in their lands as comuneros are aware of the job creation opportunities and royalty payment that mining companies can bring. Regarding which, a mining company representative [M12C3] points out that comuneros offered better conditions to mining companies to set up part of their operations on their land than those proposed by other nearby communities. Moreover, it emerged that comuneros were reluctant to share job opportunities with comuneros from other communities, as pointed out by a comunero:

“If a [mining] company comes here and generates work for the comuneros, I would congratulate them, but we would not let people from another community come to work. For example, why they [mining company] want to bring drillers from another site and if we have drillers here, they need to give preference to the local people.”
[C2C3]

During informal conversations with comuneros, they perceive that due to the proximity of the mine in their town and consequently more exposure to negative environmental impact of mining operations, that community should receive more benefits than any other community that is not near to the mining operations.

In addition to the community-wide ambition, the interviewees point out that within the same peasant community there are economic groups that pursue their own goals that in this study is identified as group ambition.

6.3.1.2. Group ambition

Many participants shared an institution that within the same peasant community there are different economic groups that pursue their own goals as a subset of their community. However, this was not acknowledged by any of the comuneros interviewed. It was reported that

some economic groups set up communal enterprises, such as transportation services, production of beer, textiles and tourism, as pointed out by a mining company representative [M6C2]. Moreover, a government representative adds family businesses set up by community leaders demonstrate a strong wish that the partnership will benefit them.

“Only the peasant community leaders through their family businesses have received benefits from partnerships with mining companies.” [G2C1]

Similarly, one government representative [G5C1] provided the example in Huaripampa town (Ancash), where the outcome of community protests favoured certain groups and not everyone within the community. This situation can create discontent and rivalry between comuneros. To solve this issue, it is important that the CSR initiatives develop through partnerships attend the needs of all the groups in the peasant communities including elderly, youth, women and economic groups. Regarding which, a third-party representative points out the need to a fair distribution of benefits to the whole community.

“In the same community [...] there are groups of power that get more benefits than others. The solution is to look for a fair distribution of benefits.” [T5C2]

6.3.2. Choosing own goals

According to Schwartz,⁴⁹⁶ ‘choosing own goals’, is a component of the Mastery value dimension that is defined as the ability to select and evaluate their own aim or purpose.⁴⁹⁷ According to the peasant community law,⁴⁹⁸ one of the main purposes of comuneros is to contribute to the integral development of the community. For that reason, during partnership negotiations, comuneros demonstrate this value when they identify and select the CSR initiatives that will improve the socio-economic conditions of the community.

⁴⁹⁶ Schwartz, ‘A Theory of Cultural Value Orientations: Explication and Applications’ (n 469).

⁴⁹⁷ Cambridge dictionary, ‘Goal’ (2019) <<https://dictionary.cambridge.org/dictionary/english/goal>> accessed 23 September 2019.

⁴⁹⁸ Reglamento de la Ley General de Comunidades Campesinas. Article 22, subsection ‘f’

In this study, a shared institution by comuneros was to become agents of their own development so that all groups within the community could participate in the selection and evaluation of CSR initiatives that will benefit their community, instead of having a passive role of dependency to the mining company or government. This is pointed out by a comunero:

“To ensure participation, I will organise the entire population [...] so that they are also actors [responsible] of their own development and they are not only waiting [a recipient of the benefits].” [C1C1].

To ensure the engagement of the whole community in the selection of CSR initiatives that will positively contribute to their development, they require training to develop capabilities that help them in the organisation of the community to take their own decisions that will benefit the community. By following this practice, mining companies will achieve the legitimization of mining operations in peasant communities' lands and appease the criticism and protest.⁴⁹⁹

6.4. Hierarchy

Hierarchy is a value orientation that emphasises on the existence of hierarchical systems that legitimate the unequal distribution of power and resources,⁵⁰⁰ on which people need to comply with their role obligations.⁵⁰¹ There is a clear hierarchical system in the Peruvian mining industry that demonstrates an unequal distribution of economic resources between comuneros and mining companies as demonstrated in section 2.1.5. Moreover, the latter receive a legal support from the government to develop mining investment. Therefore, there is in this hierarchical system, companies occupy a higher social order, meanwhile comuneros are in inferior positions.

⁴⁹⁹ Watts (n 193).

⁵⁰⁰ Schwartz, 'A Theory of Cultural Value Orientations: Explication and Applications' (n 469).

⁵⁰¹ Amir N Licht, Chanan Goldschmidt and Shalom H Schwartz, 'Culture, Law, and Corporate Governance' (2005) 25 International Review of Law and Economics 229.

From all the values that are part of the Hierarchy value dimension defined by Schwartz, the interviewees identified humbleness and social power as the key ones in the relationship between comuneros and mining companies.

6.4.1. Humbleness

The first component of hierarchy is humbleness, a value that is defined as “not proud or not believing that you are important”.⁵⁰² Despite mining companies being perceived to be in a higher hierarchical position in the organisational field, a shared institution by comuneros is that humbleness is a key value that they expect mining companies to follow so that both parties will have an equal distribution of power when developing a partnerships.

The higher hierarchical position of mining companies is seen in their superior economic power that gives them access to resources. This can also be observed in the clash between indigenous and western knowledge, whereby many mining company representatives demonstrated arrogance when criticising the communal traditions. For this reason, two comuneros [C2C3] and [C3C2] affirmed that although mining company representatives have a ‘better education’ they should show empathy and being modest when interacting with comuneros to develop partnerships.

“A representative of the mining company doesn't have to be an engineer or a lawyer, but to know how to treat people. Because if they are arrogant, they will not achieve anything and there will be disputes.” [C3C2]

A way that a representative of the mining company can demonstrate humbleness is by appreciating cultural differences, engaging in comuneros' festivities and holding meetings in a community hall, rather than the mining company's office. For example, a mining company representative points out the need to organise the partnership meetings in the peasant community and not in the mining companies' offices.

⁵⁰² Cambridge Dictionary, ‘Humble’ (2019)
<<https://dictionary.cambridge.org/dictionary/english/humble?q=Humble>> accessed 22 September 2019.

"I organised almost all the meetings with the communities in their own community, I have not taken them to a different place [...]. Remember that their houses are scattered around the town and they have a communal hall. [...] you do have to be on time or before them, because everyone is checking if you are complying with your promise." [M13C2]

6.4.2. Social power

The second component of hierarchy is social power, which is defined as "The degree of influence that an individual or organization has among their peers and within their society. The social power of a person or business often results in it being copied by others, and such power can typically be credited to the level of the skill, knowledge, information or fame that they possess in a desirable area of expertise".⁵⁰³

There may be an intersection between social power (Hierarchy value dimension) and social justice (Egalitarianism value dimension) but in this study, the difference between social power and social justice resides that the former is centred on mining companies' economic power to influence the quality of life of comuneros; meanwhile the latter, is centred on mining companies' compliance of its social responsibility.

6.4.2.1. Economic power depends on company size

An institution shared by comuneros is that as mining companies have high economic power, they must contribute to improve the comuneros' wellbeing [C8C1]. This perception is caused by different factors identified in Subsections 2.1.5 and 2.2.4, including the historic economic abundance that mining has brought to the country since colonial times, the legal support provided by the government to promote mining investment.

However, this perception does not apply to all mining companies as comuneros are aware that the level of economic influence of mining companies depends on their size. For this reason, their expectations

⁵⁰³ Business Dictionary, 'Social Power' (2019) <<http://www.businessdictionary.com/definition/social-power.html>> accessed 22 September 2019.

and demands vary depending on this factor as pointed out by a comunero:

“Comuneros do not pay attention to much in artisanal or illegal mining companies, because they are not going to meet their needs or expectations, while a large mining company will. For that reason, they see an opportunity to get something.” [C7C1]

Moreover, the different comuneros' demands according to mining company size is demonstrated in the easement agreement signed between minera Paron and the nearby peasant community (Subsection 4.5.1.1) on which the company agreed to offer an economic payment and job opportunities. However, as Paron was a small-scale mining company, it could not hire all the nearby comuneros at the same time, a situation that was explained to the community leaders, who they suggested to create a rota, meanwhile some of the elderly were allowed send a replacement to cover their shifts, if they were unable to work.

Meanwhile the two framework agreements (Minera Antamina and Santa Luisa) specified a wide range of CSR initiatives including higher economic payments, job opportunities in the mine and in the construction industry, and the development of infrastructure projects. This demonstrates that comuneros were flexible in their demands according to the company size and they can provide alternative solutions to mining companies.

6.4.2.2. Social power develops a dependent relationship

Another shared institution is that the mining companies' social power generates a dependent relationship of the comuneros, as demonstrated by the creation direct or in-direct employment in mining projects as part of the CSR initiatives, as mentioned in subsections 6.2.1 and 6.2.3. For that reason, some comuneros favour the presence of mining companies in their lands and unfortunately some are abandoning the agricultural jobs to work in the mine as pointed out by a comunero.

“Since 1998, there has been mining operations. We depend on them due to poor advice from our authorities. So, 80% or 90% of San Marquinos get used to living with the mine. They are not looking for other alternatives. Even youth does not want to study. They finish high school and want to work in the mine.” [C9C1]

Moreover, donations required by comuneros to mining companies as part of CSR initiatives enhance the dependent relationship with mining companies. Consequently, these forms of CSR initiative represent an effective and faster way to obtain legitimacy by mining companies, as they are meeting the comuneros’ short-term economic demands. However, this is not a solid relationship that will weaken when there is not an economic contribution.

6.5. Harmony

Schwartz points out that Harmony occurs when society fits into the natural environment, and the individuals need to preserve and protect this natural environment instead of changing it or exploiting it.⁵⁰⁴ From all the values within Harmony, interviewees identified that comuneros demonstrate harmony due to their strong connection to the sacred meaning of the environment and wildlife.

6.5.1. Unity with Nature

This value refers to the comuneros strong connection to nature, such as ‘Pachamama’ or motherland, and Apus that are sacred mountains that hold ancestral Andean spirits and are important members of indigenous communities.⁵⁰⁵ A mining companies representative agreed, adding that rivers and wild animals such as sheep, cattle, alpacas, etc. are part of comuneros’ cosmovision [M5C3]. However, this study finds that comuneros from Ancash region are going through a process of institutional change in the connection with nature.

⁵⁰⁴ Schwartz, ‘A Theory of Cultural Value Orientations: Explication and Applications’ (n 469); Licht, Goldschmidt and Schwartz (n 501).

⁵⁰⁵ Patrick Ryan Williams and Donna J Nash, ‘Sighting the *Apu* : A GIS Analysis of Wari Imperialism and the Worship of Mountain Peaks’ (2006) 38 *World Archaeology* 455
<<http://www.tandfonline.com/doi/abs/10.1080/00438240600813491>> accessed 5 October 2019.

6.5.1.1. Change in comuneros' connection to nature

Comuneros pointed to a process of institutional change towards a weaker connection to nature and less practising of providing offerings to Pachamama and Apus [C2C3]. The social power of mining companies and the dependent relationship that they have imposed on peasant communities are responsible for losing these traditions. The new reality is that some comuneros prefer to work and receive economic compensation, instead of protecting the sacred mountains, lands and rivers, as pointed out by a comunero:

“Some comuneros think: ‘It does not matter that the mine pollutes me or cuts the hills in half, for there is work and money’. Now, there are not sacred places, lakes, or hills. Before, we had sacred places for spiritual ceremonies.” [C1C1]

Similarly, the importance of water and hills is not centred on their divine representation, but rather, the practical use in their daily activities, such as obtaining supplies of food and water. One government representative pointed out that the belief in Apus is limited, but it still can be used as a negotiation tool with mining companies.

“The connection between comuneros and Apus is very limited, [...] although it can be used as part of the conflict discourse with the company. In reality, Andean communities want money, especially the leaders [...]. The cause of most of the conflicts is an economic reason rather than an environmental one. They do not want to preserve the lake because is magical, but they do need it to feed their animals that they eat.” [G8C3]

6.5.1.2. Environmental impact used as a negotiation tool

There is an institution shared by third parties and mining companies' representatives, who claim that environmental issues represent an instrumental tool used by comuneros to negotiate compensations and job opportunities at mining companies, as pointed out but a third-party representative [T8C2]. Another third-party representative agrees and points out that the social conflict in Jangas district was centred on the

accessibility to water which was used as a bargaining chip to have access to economic benefits.

“Peasant communities have realised that the mining company’s environmental impact becomes a bargaining chip [...]. So, comuneros will make environmental concessions in exchange for benefits. In the conflict in Jangas that involved the Barrick company, the peasant community’s position was ‘if you give me water, I will do something for you, but if you don’t do it, I will blame you for drying the water.’ [T7C3]

A mining company representative agree that comuneros use environmental issues to claim compensations to mining companies [M10C3]. Moreover, another mining company representative claimed that in one occasion comuneros boycotted their own water reservoirs to generate conflict and to ask for compensation from the mining company. However, no clear evidence was provided to support this view.

“In one opportunity, the same community members boycotted their water reservoirs to generate a conflict and demand compensations to mining companies.” [M8C1].

A third-party representative points out that after comuneros use the environmental impact of mining companies as a negotiation tool, the comuneros’ demands centred on three things: first, employment; second, setting up their own business; and third, money [T3C1]. Consequently, comuneros give legitimacy to mining companies based on the economic benefits that will bring to the community rather than its negative environmental impact.

6.6. Embeddedness

The fifth value orientation is embeddedness. Schwartz argues the individuals are embedded in the collectivity, emphasising on the maintenance of the status quo and the restriction of actions that might disrupt group solidarity.⁵⁰⁶ As a

⁵⁰⁶ Schwartz, ‘A Theory of Cultural Value Orientations: Explication and Applications’ (n 469); Licht, Goldschmidt and Schwartz (n 501).

consequence, comuneros want to keep their traditions that guide their behaviour and hold that mining companies should respect these when developing partnerships with them. From all the values within Embeddedness, interviewees identified respect for tradition as a key value in the development of partnerships.

6.6.1. Respect for tradition

This refers to “the feeling you show when you accept that different customs or cultures are different from your own and behave towards them in a way that would not cause offence”.⁵⁰⁷ Previous value dimensions have demonstrated that the Andean cosmovision is different to the Western view of reality and consequently, persons and organisations outside peasant communities should understand their idiosyncrasies and respect their traditions in such a way that CSR initiatives will incorporate both world views. Regarding which one interviewee pointed out a different view on wellbeing, where bullfighting was seen as giving the comuneros opportunities for family reunion celebrations. For this reason, they might prioritise the construction of a bullring, rather than a reservoir, as pointed out by a mining company representative [M3C2]. Hence, it would be a mistake, if the mining company tried to impose prioritisation regarding CSR initiatives. A government interviewee added that it was important to reconcile the differences in the understanding of development between mining companies and comuneros.

“The mining company needs to understand the idiosyncrasy of the communities [...]. The Andean vision is different from the people of the jungle [...]. If the mining company applies a western development model, it may clash with the development model of peasant communities.” [G3C2]

6.6.1.1. Respect for culture when developing partnerships

Representatives of the government, peasant community and mining company shared an institution that respecting the comuneros' traditions

⁵⁰⁷ Cambridge dictionary, 'Respect' (2019)

<<https://dictionary.cambridge.org/dictionary/english/respect?q=RESPECT>> accessed 13 October 2019.

would accelerate the development of partnerships. Consequently, mining companies should practise this value to gain legitimacy.

“Mining companies should respect the peasant community traditions and that will develop partnerships in a faster way.” [G7C3]

Moreover, it was generally accepted that it was necessary that the CSR initiatives met the needs of different groups within the community. Regarding which, one interviewee [M12C3] pointed out that the elderly would not be particularly interested in infrastructure projects, like schools or roads. Instead, they would want to celebrate the patronal feast, where they could enjoy the fireworks and social activities.

6.6.1.2. Mining companies’ respect for comuneros’ traditions

Despite interviewees agreeing on the importance of respecting comuneros’ traditions when seeking to develop partnerships, there was an institutional clash in the perception as to whether mining companies were truly doing so.

Representatives from both the peasant communities and government concurred that mining companies were not respecting comuneros’ traditions [C14C3]. This can be seen not only in the negative environmental impact, but also, in the disruption of the comuneros’ social practices by mining companies. For example, during the comuneros’ daily activities, trucks that carried the ore or supplies would almost run over comuneros and their cattle, as pointed out by a comunero [C2C3]. This created dust that had a negative impact on their breathing and which soiled their clothing, as pointed out by a government representative [G6C3]. This denotes that mining companies do not have a clear understanding and respect of comuneros’ traditional activities. Moreover, a comunero blames a mining company for losing their traditions.

“We have been losing our customs and traditions, because of the presence of the Antamina mining company. Before, we had

traditional festivals and typical food. Now it has changed. Before, the folklore, the dance, the culture was in our blood. Now it is reggaeton, another type of music that the youth prefer. We are losing the ancestral traditions slowly.” [C1C1]

In contrast, other interviewees perceived that mining companies do respect comuneros' traditions, especially their annual patronal feast, where the latter not only expect economic donations, but also, participation in the celebrations in terms of sharing food, drink and dance. One mining company representative [M7C2] pointed to the example of participation in an offering to an Apu for the success of the mining operations near the Huaytire community, located on the border between the Tacna, Moquegua and Puno regions. Similarly, the celebrations during the inauguration of a school, which was well-received by comuneros, show that these activities are part of good community relations with native people and that they do not fit with the traditional western model of such relations. A comunero agrees and points out the mining company's economic support in the organisations of the patronal feasts.

“Mining companies respect our patronal feasts [...]. We ask them for economic support from its organisation.” [C4C2]

6.7. Addressing Sub-Research Question Two - Discussion

How does the normative element of the new institutionalist theory shape the dynamics between comuneros and mining companies?

The normative elements of institutionalism are composed of a set of value dimensions, including egalitarianism, mastery, hierarchy, harmony and embeddedness, that mining companies need to understand and comply with when developing partnerships with comuneros.

The egalitarianism value dimension represents the foundation set of values that has shaped the behaviour of comuneros for a very long time. The systemic

oppression of the native population in Peru since colonial times has led to the existence of a dispositional distrust towards people and organisations outside the peasant community. Hence, when developing partnerships, mining companies need to develop additional activities to engender these value dimensions and thus, gain legitimacy.

Similarly, in the attempt to comply with comuneros' values that are part of their normative elements of institutionalism, there is a clash with the mining companies' regulative counterparts. In this situation, the native peoples' values challenge the compliance of mining companies' policies and code of conduct that restrict the corporate behaviour during negotiations with peasant communities. To resolve this, mining companies practice their creative compliance to comply with comuneros' demands and at the same time, meet mining companies' internal policies.

Mastery is an important value orientation on which comuneros demonstrate ambition to select and accomplish their goals. Similarly, hierarchy is value orientation on which mining companies occupy a higher hierarchical position than comuneros as the distribution of power and economic resources favours the former. Both value orientations have an impact in the comuneros' process of institutional change as when they become more ambitious to have access to economic resources, comuneros change their economic organisation from a collectivist towards an individualistic one. Moreover, other changes are seen when some comuneros are losing their local traditions and connection to nature and use them as negotiation tools to have access to economic resources.

To enhance the relationship between comuneros and mining companies, it is required the mining companies improve some values within egalitarianism value dimension including:

- The development of rational trust, when developing CSR initiative that provides short and long-term outcomes to comuneros;

- Engendering affinitive trust through mining companies sharing comuneros' values by promoting dialogue and compliance with their verbal and non-verbal promises;
- Equality should be promoted by granting comuneros a similar social position during the negotiations;
- Social justice should be advocated by providing a fair distribution of wealth and opportunities.

Moreover, mining companies need to reconcile their value orientations with the comuneros' counterparts including, hierarchy (humbleness), harmony (connection to nature), embeddedness (respect to their traditional knowledge and festivities), and mastery (improving the comuneros' decision-making power when choosing their own CSR initiatives). A summary of the Normative Elements of Institutionalism is seen in Table 6.2.

Table 6.2: Summary of the normative elements of institutionalism in the development of partnerships

<p>Institutions:</p> <ul style="list-style-type: none"> • Past events have an impact on the lack of dispositional trust • There is affinitive trust in foreigners because they belong to a different organisational field • Procedural trust is developed when mining companies comply with the agreements signed with comuneros • Comuneros' expectations that mining companies' CSR initiatives will solve their economic needs • Comuneros demonstrate two levels of ambition: Community-wide and group ambitions • Comuneros want to become agents of their own development • Humbleness is a key value when developing a partnership by appreciating cultural differences, and engaging in festivities • Economic influence of mining companies depends on the size of the company • Mining companies' social power generates a dependent relationship amongst comuneros • Environmental issues represent an instrumental tool used by comuneros to negotiate compensations and job opportunities • Respecting the comuneros' traditions accelerates the development of partnerships
<p>Institutional Clash:</p> <ul style="list-style-type: none"> • The comuneros' level of independence and respect to community values when working for a mining company. • When mining companies try to comply with regulative elements institutionalism, such as law or codes of conduct, that are not aligned with comuneros' normative elements of institutionalism • Mining companies to comply its social justice role. • Mining companies' ambition to avoid any interruption in mining operations and peasant communities to demand for CSR initiatives • The contradictory perceptions that mining companies respect or do not respect comuneros' traditions
<p>Institutional Change:</p> <ul style="list-style-type: none"> • Comuneros' predisposition to distrusting mining companies and government varies according to the distinct past experiences of each region • Comuneros' preference for the development of CSR initiatives that have a short-term and long-term impact • Mining companies develop affinitive trust by reconnecting with comuneros' values: principle of common good, dialogue and fulfilling promises • Comuneros change from collectivist form of society towards an individualistic one

- Equal decision-making power of the whole community and not just the leaders when developing the partnership
- Comuneros' weaker connection to nature and less practising of offerings

Chapter Seven - Analysis of Cultural-Cognitive Elements

Chapter seven provides the empirical findings in relation to the Cultural-Cognitive elements of institutionalism that are the symbolic representation of social reality, categorised in three components including: the role of stakeholders, rituals and artefacts that contribute in the understanding of CSR and development of partnerships. Therefore, the analysis of the institutions, institutional clashes, and process of institutional change that are embedded in the symbolic representation of social reality support the answer of the third sub research question.

7.1. Setting the scene

Cultural-cognitive elements are part of Scott's pillars of institutional order and its main characteristics that were covered in chapter three,⁵⁰⁸ Subsection 3.6.5, including institutions, clashes and change in the relationships between the focal groups. A summary of the cultural-cognitive elements of institutionalism is presented in table 7.1.

Regarding this third element of institutionalism, covered in subsection 3.6.5, Scott argues⁵⁰⁹ that the cognitive interpretation of social reality is circumscribed by an external cultural framework represented by symbols,⁵¹⁰ including: words, signs and gestures.⁵¹¹ Consequently, to understand the meaning of CSR and social partnerships, it is necessary to interpret its symbolic representation by comuneros.

Based on the interviewees' responses, the study classified the symbolic representation of social partnerships in three components: stakeholders and their role in the partnership; rituals that are a set of actions and words that are

⁵⁰⁸ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

⁵⁰⁹ *ibid.*

⁵¹⁰ Licht, Goldschmidt and Schwartz (n 501).

⁵¹¹ *Institutions and Organizations : Ideas and Interests* (n 278).

performed regularly;⁵¹² and artefacts that are the physical and abstract representation of things⁵¹³ that are not a living person, animal or plant.

Table 7.1: Cultural-Cognitive elements of institutional order adapted from Scott;⁵¹⁴ Ramsey, Leonel, Gomes, and Monteiro;⁵¹⁵ and Palthee⁵¹⁶

	Cultural – Cognitive elements
Definition	<ul style="list-style-type: none"> • Shared knowledge and understanding
Basis of Compliance	<ul style="list-style-type: none"> • Taken-for granted
Basis of order	<ul style="list-style-type: none"> • Constitutive schema
Basis of legitimacy	<ul style="list-style-type: none"> • Culturally supported
Symbolic systems / Indicators	<ul style="list-style-type: none"> • Stakeholders: mining company, government, comuneros, third parties, and actors in partnerships • Rituals: communal work, education, protest, participation in festivities, and rumours • Artefacts: economic compensation, Quechua, gift, infrastructure project, and CSR
Logic	<ul style="list-style-type: none"> • Orthodoxy

7.2. Stakeholders

In this category, the study analyses the perception of the stakeholders' role in the development of social partnerships, including mining companies, government, comuneros, and third parties. Moreover, the study investigates whether bilateral or tripartite agreements are the suitable model of partnerships in the Peruvian mining industry.

⁵¹² Cambridge dictionary, 'Ritual' (n 315).

⁵¹³ Cambridge Dictionary, 'Artefact' (n 316).

⁵¹⁴ *Institutions and Organizations : Ideas and Interests* (n 278).

⁵¹⁵ Ramsey and others (n 298).

⁵¹⁶ Palthe (n 299).

7.2.1. Mining company

According to the participants, mining companies have a key role in the development of partnerships with comuneros. However, due to mining companies' for-profit purpose that guide their behaviour and their negative socio-environmental impact, there is a perception that they should develop CSR activities to build comuneros' trust.

7.2.1.1. Mining company developing CSR initiatives to foster trust

Subsection 6.2.1 has explained that since colonial times, native people have had negative experiences with persons and organisations that are not part of their communities, which has created a culture of dispositional distrust. Moreover, past experiences when mining companies developed unethical practices to accelerate the comuneros' approval of mining companies caused the perception that the latter are agents of deception. Regarding which, a comunero perceived mining companies as a synonym for terrorism, because they kill customs, organisations and create economic gaps [C7C1].

Furthermore, one government representative provided another example of mining companies' deceiving practices when the latter invited to the consultation process only nearby peasant communities who were in favour of the mining project. The response to this was a protest from other nearby peasant communities, who did not participate in this process, which resulted in the mining company having to engage in a new consultation.

“In 2008 or 2009, Anglo American mining developed participatory workshops in Moquegua region to obtain the social licence and start the exploration stage of its Quellaveco project. However, to make this process faster and without delays, they invited comuneros from Tacna and Arequipa regions, who were in favour of the project [...] but not many from Moquegua. This caused a protest from civil society in Moquegua region [...]. Later, the mining company organised a new consultation process [...] and the project was approved with the promise that they would develop 4 or 5 CSR projects in Moquegua region.” [G1C2]

Consequently, interviewees share an institution that mining companies need to develop CSR initiatives to attend comuneros' needs, thereby removing the traditional negative image of deception and building trust. Regarding which a comunero pointed out the requirement of creating job opportunities at the mining company to attend comuneros's urgent socio-economic needs.

“We have economic needs, for that reason the mining company should give us jobs.” [C2C3]

Other CSR initiatives focussed in promoting the development of comuneros' skills and entrepreneurial capabilities in setting up communal enterprises to commercialise traditional products to other regions, as pointed out by a government representative [G1C2]. Regarding the development of skills as part of CSR initiatives, the framework agreements signed by Minera Antamina and Santa Luisa (Subsection 4.5.1) include the training for the improvement of the agricultural and cattle production in the nearby peasant communities. This confirms that the development of skills is one of the recurrent CSR initiatives included in partnership agreements. However, the identification of the topic of the training will depend on the comuneros' needs.

Given the scarce public services in some peasant communities,⁵¹⁷ there are different views about whether the mining companies' CSR initiatives should cover the provision of public services or whether it is the government's responsibility to attend these needs.

7.2.1.2. Mining company as a replacement of the government

Interviewees agreed that there is an institutional clash relating to the role of the mining company as being a replacement of the government in the provision of public services in the town where they are operating.

⁵¹⁷ Ramon Pajuelo Teves, *Trayectorias Comunes: Cambios y Continuidades En Comunidades Campesinas e Indígenas Del Sur Andino* (Grupo Propuesta Ciudadana ed, 1st edn, 2019).

Some views support the idea that mining companies should provide public services in nearby peasant communities as part of their CSR initiatives. Regarding which, one comunero [C14C3] and a government representative [G6C3] agreed that mining companies should be responsible for the provision of public services, including water distribution, health, communications and education. Moreover, a mining company representative adds that the construction of public services in these areas are part of their social responsibility and its purpose is to develop a good relationship with the community.

“We can’t always complain about the government; we should move from ‘the government should do it’ mentality. We should do it as we are the main stakeholders [...]. We have to train the residents that the purpose of law is to build a good relationship, respecting the community and the environment.” [M3C2]

However, other views from mining company and third-party representatives were that the mining companies should not be a replacement for the government. That is, for them, the construction of public services is not part of the social responsibility of mining companies. Regarding which, a third-party representative pointed out that, whilst Canadian mining companies were responsible for the provision of luxury services as part of their CSR programme, they were not expected to deliver basic infrastructure facilities, as this is the government’s responsibility.

“Canadian mining companies negotiate with the city council the development of luxury projects, such as the extension of the golf course, the improvement of the Olympic pool, because public services are covered. However, not in Ancash. Here, you have to negotiate the school, the hospital and every public service that is not covered. The social responsibility does not cover that.” [T9C1]

This quote highlights the different scope of social responsibility in developed and developing countries in that in the latter there is a lack of public services due to the scarcity of funds and weak governmental

capabilities. For that reason, the understanding and the development of CSR initiatives must be suitable to the distinct needs of each country where companies are operating, which is aligned to the contextual definition of CSR in chapter three, section 3.4.

7.2.2. Government

The interviewees agree that the government should change its role in the development of partnerships as in the mining industry, the Government is a stakeholder that has not been attending the peasant communities' needs. As a consequence, the government's role in the development of partnerships will depend on whether they can change comuneros' perceptions.

7.2.2.1. Government's disinterest in peasant communities' issues

An institution shared by interviewees is that the government does not show any interest in addressing comuneros' issues as peasant communities are located in remote, rural towns in the Peruvian Andes, as pointed out by a comunero.

"The central government does not care about the peasant communities [...] as they are in Lima and do not go to the interior of the regions." [C10C3]

Although the government designs development plans to attend needs at national, regional and district levels, it does not demonstrate governmental capabilities to develop plans to reach and attend to the needs of rural communities.⁵¹⁸ Regarding which a government representative [G2C1] points out that there is a need for a community level plan that will attend peasant communities' needs.

⁵¹⁸ Abelardo Hurtado - Villanueva and Roxana Gonzales - Vallejos, 'La Gestión y Planificación Municipal En El Perú' (2015) 28 Revista Tecnológica-ESPOL 9 <http://m.repositorio.unj.edu.pe/bitstream/handle/UNJ/21/La_gestión_y_planificación_municipal_en_el_Perú.pdf?sequence=1&isAllowed=y> accessed 16 November 2020.

Despite this perception, it is not clear if the lack of a development plan at a community level is due to the lack of governmental capabilities or the government's preference to favour mining operations in rural areas.

7.2.2.2. Governmental protection of mining companies

Another shared institution by interviewees is that the government provides legal protection to mining companies as they are key providers of economic investment in the country. Consequently, this exacerbates the comuneros' distrust of governmental bodies, because they favour mining companies' actions, as pointed out by a comunero.

“mining companies do not comply with their responsibilities, and unfortunately this occurs with the complicity of the authorities, especially the central government, which favours mining companies.”
[C9C1]

Despite the perception that the government protects mining companies' operations, for some interviewees, it is not clear the identification of which of them leads and sets the agenda in the mining industry, as pointed out by a government representative [G5C1]. This shows the increasing power of companies in the political sphere to change the legislation. Regarding this matter, Campbell adds that corporations with high levels of influence can manipulate in their favour the development regulatory requirements.⁵¹⁹

7.2.3. Comuneros

Interviewees agreed that comuneros perform a key role in the development of partnerships as they are directly affected by the impact of mining operations near their communities, and through social conflict they can stop mining projects. For that reason, comuneros will have a better relationship with the mining company and solve these socio-economic issues through the negotiations in partnerships. In this regard, respondents concurred that

⁵¹⁹ John L Campbell, 'Why Would Corporations Behave in Socially Responsible Ways? An Institutional Theory of Corporate Social Responsibility' (2007) 32 The Academy of Management Review 946.

comuneros are going through an institutional change process, whereby they are improving their negotiation capabilities in partnership agreements.

7.2.3.1. Improvement in comuneros' negotiation skills

There are some views that claim that historically comuneros have not possessed the required negotiation capabilities to meet their goals during partnership negotiations.⁵²⁰ Consequently, they were in a disadvantaged position when interacting with mining companies. A mining company representative [M7C2] pointed out that comuneros lack the required economic resources to employ the technical advisory support during the negotiation with mining companies. Moreover, one comunero added that they do not have the technical expertise to prioritise their urgent needs.

“The peasant community does not know how to identify our own priority needs. Instead, we focus on secondary issues.” [C7C1]

However, there are other views who argue that in recent years comuneros have been developing negotiation capabilities, as demonstrated in their increasing demands when meeting mining companies. In this regard, one government interviewee pointed out that comuneros have been increasing their demands when selling their communal lands to mining companies:

“The communities have improved the negotiation skills. There is no longer the case that for a few cents, mining companies will buy thousands of hectares. Today, the demands are higher.” [G4C1]

During informal conversations with representatives of mining companies and the government, it was pointed out that some peasant communities have been hiring lawyers or other organisations to manage the partnership negotiations. However, it is not clear if peasant communities across other regions in Peru have access to this legal support.

⁵²⁰ Gustavo Zambrano, ‘Comunidades Campesinas y Empresas Mineras: Cuando La Prisa Prima Sobre La Razón’ (*Noticias y Eventos*, 2015) <<https://idehpucp.pucp.edu.pe/opinion/comunidades-campesinas-y-empresas-mineras-cuando-la-prisa-prima-sobre-la-razon/>> accessed 14 January 2021.

7.2.3.2. Comuneros' rights to access to modernity

Through social partnerships, comuneros can achieve socio-economic development, including access to public services and technology to become a modern community. Interviewees agreed that through establishing partnerships, the comuneros have the right to adopt modern practices, whilst keeping their traditions, as pointed out by one mining company representative.

"I see comuneros, who are owners of small companies, but who dress like other comuneros, still speaking their Quechua and participating in local traditions. The local population has the right to adopt 'modern' city habits [...] but we should make sure that their local identity is not lost." [M11C1]

However, this access to modernity may have a negative impact in relation to comuneros keeping their native traditions. It thus raises the question whether a comunero who is adopting modern city traditions should be protected by native people's right, such as through the Prior Consultation Law. This situation resonates with the discussion in subsection 5.2.2, where some interviewees perceive that comuneros do not fulfil the requirements to be officially recognised as native people and therefore, they do not have access to this law.

7.2.4. Third parties

In this study, the interviewees pointed out that third parties are stakeholders comprising NGOs and consultancies in Ancash region. Third parties play two different roles in the development of partnerships: first, they provide technical expertise to mining companies, such as the implementation of CSR initiatives; and second, they provide legal advice to comuneros to protect their rights during the partnership negotiations.

7.2.4.1. Dual role of third-parties

The interviewees point out an institutional clash regarding the dual role of third-parties was demonstrated during the 1990s in Ancash region.

One government representative identified this dual role as simultaneously playing two roles: as contractors of mining companies and as legal advisors in relation to comuneros' rights:

“There are two types of NGOs in the extractive industry: the first ones are NGOs that are contractors, following the company orders and therefore, losing their independence [...]. The second ones defend the community rights, but they are present only in limited cases; usually national-scale cases.” [G8C3]

Some argued that third-parties become contractors for mining companies in that they are responsible for carrying out the social baseline studies, which are developed at the start of mining operations. The purpose of social baseline studies is to provide a greater understanding of the socio-economic characteristics of local communities and analyse the potential positive and negative impacts of mining operations.⁵²¹ For that reason, third parties built a closer relationship with comuneros, promoted community engagement and developed CSR initiatives. This is supported by a mining company representative:

“there are consulting companies [that] that were responsible for improving the relationship between mining companies and peasant communities.” [M3C2].

The main criticism to this role as a contractor resides in the temporary contractual relationship with mining companies, who manage the project funds and policies that third-parties should follow, and for that reason, the latter lose their independence when taking decisions.

In contrast, other interviewees argued that third parties perform the role of protector of comuneros' rights by providing legal expertise during the partnership negotiation. One mining company representative provided

⁵²¹ International Council on Mining and Metals, 'Tool 11 - Social Baseline Study' (*Community Development Toolkit*, 2012) <<https://guidance.miningwithprinciples.com/community-development-toolkit/tool-11-social-baseline-study/>> accessed 25 December 2020.

the example of an NGO that provided campaigns to raise awareness of environmental issues among peasant communities.

“In a peasant community in Espinar district in Cuzco region, there was an NGO that provided talks about water pollution by mining companies [...] that was raised in the negotiations.” [M10C3]

In this second role of third-parties, there is not a contractual relationship with mining companies, as they are self-funded and therefore, they keep their independence in the selection of the awareness campaigns developed in peasant communities.

7.2.4.2. Impact of CSR initiatives developed by third parties

During informal conversations with government representatives, they pointed out that during 1990s, Ancash region hosted a large number of NGOs that developed CSR initiatives on behalf of mining companies. Based on an assessment of third-parties' performance during this period, there is a shared institution related to the lack of positive socio-economic impact of CSR initiatives developed by them.

Some argue that the CSR initiatives developed by third-parties did not improve their socio-economic conditions as they have a limited budget and time frame. Regarding which one comunero pointed out that this situation occurred when the third-party had a deadline for developing a CSR initiative and if they did not meet this, then they would still leave the peasant community without a positive impact.

“5 years ago, an NGO tried to set up an association. They promised to get us a market to sell our products, but they did not fulfil the promise. The NGO's project has a timeframe and once this has been met, they leave [...] For example, when an NGO bought 20 or 18 cattle, we wanted to have access to sell cheese. However, the NGO met its timeframe and left. As we have no business knowledge, we did not know what to do, now we are still poor.” [C2C3]

Others contended that third-parties developed CSR initiatives based on awareness campaigns in areas, such as health, agriculture techniques

and education. However, these initiatives did not attend to the comuneros' urgent needs, including poverty reduction and health concerns. Regarding which, a government representative highlighted that training campaigns that did not improve the life quality of comuneros:

“there have only been talks on broad topics, such as agriculture and health, but they did not develop [...] programmes [that give] a better life quality to comuneros.” [G2C1]

7.2.5. Actors in partnership

The previous subsections assessed the role of each stakeholder in the development of social partnerships in Ancash region. This subsection identifies a process of institutional change in which partnerships are changing from being a bilateral relationship, between the peasant community and mining company, to being a tripartite one between the peasant community, mining company and government.

7.2.5.1. Bilateral and tripartite models of partnerships

Many interviewees agreed that since the 1990s partnerships were based in a bilateral relationship between mining companies and comuneros, because both were the key stakeholders who were directly affected by mining operations, whilst the government has not really shown any interest in becoming involved. Moreover, one comunero held that as there has been a little presence of the local government in the peasant community and hence, the partnership should involve only the participation of comuneros and mining companies.

“The government does not know the comuneros' needs [...] they are in their offices [...] If we have to build a partnership, it would be between the comuneros and the companies.” [C13C3]

In the easement agreement signed by Minera Paron (subsection 4.5.1.1) the parties involved were the mining company and the leaders of the peasant community. The mayor did not participate in the

agreement and was not aware of its conditions as it was a private agreement between the parties.

A mining company representative agreed and pointed out that bilateral partnerships offered transparency in the negotiation with comuneros. However, these practices led to dependent relationships, whereby the mining companies became suppliers of comuneros' demands in order to avoid social conflict. Hence, there is a need to change this approach taken by the mining companies.

“The bilateral relationship between the company and the community at some point was good; however, it was full of errors in its application. Although it was very transparent, sometimes the companies adopted paternalistic behaviour and subsidised everything to the community [...]. This bilateral relationship has been happening in parallel with an increase in the number of social conflicts [...] Nowadays, there isn't a bilateral relationship, but a relationship of at least three parties.” [M5C3]

Nowadays, there have been calls to develop tripartite partnerships, where the identification of the parties involved depends on their contribution to the partnership. The interviewees pointed out that a partnership involves the participation of comuneros, mining companies and government as they had a tense relationship for decades, as demonstrated in chapter two. For that reason, a partnership represents an opportunity to resolve their differences and have a harmonious relationship. However, interviewees welcome the participation of third parties as another member of the civil society.

Comuneros agree that the participation of government and third parties is welcome, if they have the technical knowledge and economic independence to guide the comuneros during the partnership negotiations and the development of CSR initiatives. Here, one comunero welcomed the participation of the government and third parties with the condition that they provide guidance to the comuneros' during the partnership negotiations.

“The regional government can participate, if they are concerned about our communities. An NGO would be good, if they have knowledge and can guide us.” [C11C3]

The framework agreements signed by Minera Antamina (Subsection 4.5.1.2) and Santa Luisa (Subsection 4.5.1.3) include the participation of the civil society and government, and a clear identification of their roles and responsibilities during the partnership.

In both agreements, the civil society included the participation of an association of peasant communities that represented the comuneros' demands in the partnership negotiations. The representatives of the government include the mayor and the Ministry of Mines. The mayor was responsible for identifying and co-funding CSR initiatives, and providing technical support in the development of infrastructure projects; meanwhile the representative of the Ministry of Mines was responsible for organising the dialogue table to reach the agreement between the parties.

There have been effective models of social partnerships developed in Peru that involve the participation of the comuneros, mining companies and government. One example of an innovative initiative is the case of IRL mining, which was developed through a partnership where the comuneros became part of the shareholders.⁵²² As a consequence, they were entitled to receive an economic payment and have decision-making rights over the company's behaviour, as pointed out by a third-party representative [T10C1], whilst the government provided regulatory and technical support.

Representatives of a mining company [M13C2] and a third-party [T9C1] asserted that Antamina's model of partnership is the ideal approach as it removes the lead role of the mining company. Instead, development becomes the centre of the relationship between stakeholders. Moreover,

⁵²² Cesar Saenz, 'ISO 26000: Social Responsibility Guide to Prevent Social Conflicts' (2012) 4 Revista Contact 36 <https://issuu.com/amchamperu/docs/contact_oct_dic_2012> accessed 14 January 2021.

in this model of partnership, the mining company becomes an agent of development, responsible for bringing in the government or other organisations that will contribute to meeting the community needs.

7.3. Rituals

According to Van Wijk and Gillian Finchilescu, rituals are repetitive cultural activities that are embedded by expressive and symbolic elements.⁵²³

Comuneros practice rituals when interacting with other stakeholders during the development of partnerships. Hence, it is important to understand how these rituals function in order to foster better relationships. In this study, the interviewees identified five types of rituals, including: communal work, education, protest, festivities and rumours.

7.3.1. Communal work

Work is a ritual that is part of comuneros' traditions, demonstrated in the communal activities on their farms or in the construction and maintenance of communal services,⁵²⁴ such as houses, bridges and reservoirs⁵²⁵.

Regarding communal work, interviewees also described other group activities, such as sharing food and having group conversations. For this reason, CSR initiatives developed by partnerships should involve the creation of job opportunities where comuneros can engage in communal work practices.

7.3.1.1. Communal work opportunities

The interviewees shared an institution in relation to comuneros demanding training and job opportunities at the mine. Regarding this point, one mining company interviewee [M2C3] pointed out that

⁵²³ Charles H Van Wijk and Gillian Finchilescu, 'Symbols of Organisational Culture: Describing and Prescribing Gender Integration of Navy Ships' (2008) 17 *Journal of Gender Studies* 237.

⁵²⁴ Pajuelo Teves (n 517).

⁵²⁵ Minka was a form of comunal work in the Andean región practiced before the colonisation; Alfredo Altamirano and Alberto Bueno, 'El Ayni y La Minka: Dos Formas Colectivas de Trabajo de Las Sociedades Pre-Chavín' (2011) 15 *Investigaciones Sociales* 43.

comuneros demand low-skilled jobs and training to perform high-skilled work in the mining company. One comunero added:

“To work for the company, they must give us training [...]. Our vision is to work in the mining company.” [C14C3]

Moreover, the three case studies in subsection 4.5.1 demonstrate that mining companies agreed to provide training and job opportunities to the nearby peasant communities. In both cases, the company provided high and low-skilled jobs in the mining industry and in related ones such as construction. Hence, job opportunities are a common demand as part of CSR initiatives in the development of partnerships.

In relation to the job opportunities offered to comuneros at mining companies, interviewees agreed that government should guarantee jobs to the locals. In this regard, one government representative argued that the government should guarantee the employment of at least 50% of local comuneros in mining companies.

“The government should ensure that 50% or 60% of the locals work for private mining companies [...]. In the agreements, we specified the percentage of local people who must have work.” [G7C3]

In addition, other interviewees pointed out that mining companies are providing training so that comuneros develop the entrepreneurial capabilities to set up communal enterprises. Here, a government representative described some examples of communal enterprises that offer services relating to mining production, transportation or provision of supplies [G7C3]. In addition, one mining company interviewee provided an example of communal enterprises pertaining to agro-industrial trade and as communicators of the environmental impact of mining companies.

“We give them the idea and training, and now comuneros sell scarfs, gloves, gloves and clothing. Now, comuneros have a bigger communal enterprise that produces almost 10 times more income than

if they were working at the mining company [...]. There are other projects, including the production of pasta, sunscreen that is used in schools [...] artisanal beer, transportation services, and selling trout [...]. For the environmental impact assessment, we train comuneros about EIA and they explain this to the community and we pay them as a service.” [M6C2]

However, when mining companies give the opportunity to communal enterprises to become their suppliers, this creates an institutional clash with the former’s regulative elements of institutionalism. This is because the corporate policies restrict the acquisition of products that do not comply with the quality standards. In this regard, one mining company representative said:

“Sometimes, communal enterprises demand mining companies give them opportunities for contracting goods and services without having the qualifications and the competences.” [M11C1]

To avoid this clash, mining companies have had to practise creative compliance in terms of finding mechanisms to accept lower quality standards of supplies provided by communal enterprises and thus, attend to comuneros’ demands.

7.3.2. Education as a source of development

Interviewees shared an institution that education represents the most important pillar of development for peasant communities.⁵²⁶ Hence, projects relating to education are amongst the most important CSR initiatives that should be included in partnerships.

7.3.2.1. Educational programmes in CSR initiatives

According to interviewees’ responses, educational programmes should be one of the most important CSR initiatives developed through partnerships as they represent comuneros’ key source of development. Here, one comunero points to education as a key pillar of development.

⁵²⁶ Pajuelo Teves (n 517).

"Education is the fundamental pillar in our town. Without education people would be worse than before. [...]. Currently, the mining company is complying with education, livestock and agricultural initiatives." [C4C2]

CSR initiatives related to education not only involve the construction of schools or colleges in peasant communities, but also, the development of occupational training and health campaigns. For example, one mining company representative highlighted the importance of a health campaign in rural areas of Puno region. This did not require the construction of a hospital, but rather, pertained to educating the comuneros to develop good and simple personal hygiene habits, such as washing their hands before eating, with the ultimate purpose of reducing child mortality [M6C2].

Another example of educational programmes as part of CSR initiatives is seen in the case study of Minera Antamina (Subsection 4.5.1.2) which organised health campaigns in the nearby peasant communities⁵²⁷ as part of their CSR programme. Meanwhile, it is not clear whether Minera Paron and Santa Luisa followed the same practice as it was not specified in the easement and framework agreement respectively, and in their corporate webpages. This demonstrates that the identification of CSR initiatives varies according to comuneros' demands.

An important characteristic of effective educational programmes is that they should develop capabilities that are transferable to comuneros' daily activities so as to promote engagement. Regarding which one comunero points out that the educational programmes developed by mining companies were not effective in their community as comuneros did not get used to receive training.

"We are peasants and are not getting used to training programmes, for that reason some get bored and do not attend." [C2C3]

⁵²⁷ Energiminas (n 395).

Moreover, an important factor that contributes to the effectiveness of educational programmes in peasant communities resides in the prioritisation of CSR initiatives, as comuneros have urgent needs that they feel should be met. Here, one government interviewee criticised the training campaigns provided. It was felt these did not improve the comuneros' quality of life, who are still lacking access to basic services [G2C1]. To support this point, one mining company representative said:

“You can't provide training about comuneros' rights when they don't have anything to eat or their children cannot go to school.” [M10C3]

7.3.3. Protest and social justice

According to Habermas, a protest is a social mobilisation of peasant communities to defend their rights and social organisation.⁵²⁸ In this study, a protest is a comuneros' ritual that represents a legitimate instrument to achieve a fair distribution of wealth and privileges that will result in social justice.⁵²⁹ Arellano-Yanguaz holds that the local population use conflicts to maximise their access in the distribution of mining income.⁵³⁰

During the last two decades in the Peruvian mining industry, social partnerships have been arising as a space for dialogue and to resolve social conflicts between comuneros, the government and mining companies. A notorious example occurred in 2008 when the population of Moquegua region protested against the government's work in the zone by blocking for ten days the Montalvo bridge,⁵³¹ which connects the Tacna, Moquegua, Arequipa regions with the rest of the country.⁵³² To resolve the

⁵²⁸ J Habermas, *The Theory of Communicative Action (Vol. 2): System and Lifeworld*. (Polity 1987).

⁵²⁹ Lexico (n 493).

⁵³⁰ Arellano Yanguas (n 483).

⁵³¹ Andina, 'Moquegua Levanta Bloqueo de Puente Montalvo Tras Exposición de Acuerdos Con Ejecutivo' (*Noticias*, 2008) <<https://andina.pe/agencia/noticia-moquegua-levanta-bloqueo-puente-montalvo-tras-exposicion-acuerdos-ejecutivo-ampliacion-180691.aspx>> accessed 16 August 2020.

⁵³² Liz Ferrer Rivera, 'Moquegua: Bloqueos En Puente Montalvo Por Tercer Día' *La República* (2020) <<https://larepublica.pe/sociedad/2020/12/17/moquegua-bloqueos-en-puente-montalvo-por-tercer-dia-lrsd/>> accessed 26 December 2020.

conflict, the government set up a 'working table',⁵³³ where the government and the local community reached an agreement that included a partnership with Southern Copper mining company to develop public infrastructure projects to cover urgent needs in the districts of Pacocha and El Algarrobal. There also was a change in the law as result of the talks that favoured a better income distribution from mining taxes and royalties in the region.⁵³⁴

Interviewees shared an institution whereby a protest represents a legitimate mechanism to enforce mining companies and government to comply with their promises, as pointed out by a government representative [G2C1]. Moreover, a protest accelerates the execution of public infrastructure projects, for if the traditional channels are followed, the government will take more time to accomplish them, as pointed out by a third-party representative [T7C3]. Here, Arellano-Yanguas argues that peasant communities near mining operations in Peru use conflicts to negotiate for higher economic compensation and job opportunities in mining companies.⁵³⁵

Some interviewees agreed that due to the use of protest, the comuneros have developed an institutional logic: the bloodier the conflict the easier to get their demands met. As an example, one comunero in Huallanca district said he was willing to die in a protest against the mining company to defend comuneros' needs [C6C2]. Similarly, a mining company representative stated that when the protest brings casualties, this increases the likelihood of the comuneros' demands being met:

"The comuneros think that the way to get results is by hitting the other person or the company: 'If I block the company, the company will end up giving me something [...] If a protest brings dead people, it will make it easier to get things'." [M9C1]

⁵³³ A working table is part of a negotiation mechanism promoted by ONDS to resolve conflicts; Presidencia del Consejo de Ministros, 'Diálogo y Prevención Garantía de Desarrollo: Informe de Diferencias, Controversias y Conflictos Sociales.' (1st edn, 2012).

⁵³⁴ Andina (n 531).

⁵³⁵ Arellano Yanguas (n 483).

7.3.4. Participation in comuneros' festivities

Many interviews agreed that the participation in peasant communities' festivities represents an important comuneros' institution that demonstrates the compliance of comuneros' values to obtain legitimacy. Hence, during the development of partnerships, the participants need to identify what communal celebrations are important and assess their level of participation in these festivities so as to integrate with the community, instead of expecting comuneros to adjust to modern forms of interaction with mining companies, as pointed out by one mining company representative [M12C3].

Peasant communities in Ancash region have two significant celebrations: The Independence Days celebrations on the 28th and 29th of July, which bring pride, a sense of belonging and a symbol of independence to comuneros; and the patronal feast, a yearly celebration in honour of the catholic patron saint of the community,⁵³⁶ which can last from one up to seven days. In both celebrations, 'stewards' are elected to sponsor the festivities,⁵³⁷. They can be any member of the community and they could participate by making donations or physically organising and participating.

7.3.4.1. Participation in traditional celebrations through donations

Many interviewees agreed that comuneros tend to request mining companies to provide donations for both celebrations. To illustrate, a mining company representative [M2C3] reported that mining companies sponsor communal activities by making donations. Communal activities include sports, local community games, food fairs and parties with traditional music. Moreover, one comunero said that it was expected that mining companies would participate in their celebrations by making donations, regardless of the stage in the life cycle of the mine⁵³⁸:

“Antamina participates in the Independence Day celebrations on 28th and 29th July through donations, Santa Luisa participated before, but

⁵³⁶ Roman Robles Mendoza, 'Representaciones de La Memoria En Los Eventos Festivos Andinos' (2016) 19 Investigaciones Sociales 11.

⁵³⁷ *ibid.*

⁵³⁸ The mining life cycle can be divided into four stages: exploration, development, operation and closure; British Columbia Mine Information (n 78).

not now. Other mining companies who are in another stage [of the mine cycle], they don't participate, but they did it before [...] I would like companies to participate in all the traditional activities.” [C6C2]

Consequently, making donations represent a way of participation in comuneros' traditions. However, it is not clear whether it is an effective way to develop a strong relationship, for, as aforementioned, it can lead to developing a dependent one.

7.3.4.2. Active participation in traditional celebrations

Some mining company interviewees pointed out that demonstrating a physical and emotional engagement in comuneros' festivities is an effective way to develop a strong relationship with them that will likely lead to an agreement between both parties. In this regard, a mining company representative contended that that by joining celebrations and dancing as well as sharing food and drink with comuneros, mining company representatives taking part demonstrate that they share the same values as the former:

“In Patronal feasts, comuneros dance, but if the ‘gringo’ [foreigner] only looks and does not participate because he doesn't understand their traditions, then the comunero will think ‘that man is arrogant, he doesn't want to dance with us, I invite him food and he doesn't eat’. These details have a great influence in the success of an agreement.” [M12C3]

However, it is not clear whether the active participation in traditional celebrations is more effective than the provision of donations, or whether both practices can complement each other to demonstrate mining companies are demonstrating understanding and respecting comuneros' values.

7.3.5. Rumour

A shared institution by representatives from the government and mining companies is that spreading rumours is a comunero's ritual that is part of comuneros' cosmovision about the impact of mining operations on their

sacred interpretation of nature,⁵³⁹ including sacred mountains (or 'Apus'), rivers and wildlife. Consequently, the management of comuneros' rumours is a key element that could potentially contribute to the success of the partnerships.

A government representative [G6C3] shared an example where the city council installed equipment in a lake near a peasant community to assess the water quality. However, the comuneros thought that the equipment was responsible for the drought and they blamed the mining company for this. Another mining company representative explained that comuneros from Ancash region accused the mining companies of sacrificing comuneros to increase the quantity of the ore.

"In the late 1990s, the mining company arrived in Huaraz. Comuneros had never seen big machines, and myths were created [...]. For example, people thought machines would hurt them or they would take away their body fat, or comuneros will be sacrificed in the lake, so that there would be more gold [...]. Some people thought that we have uranium, which is not true [...], or our machines prevented rain [...] or there are many flies, because the mine killed all the frogs." [M8C1]

In both examples, the function that rumours play in this context is to express the negative impact of mining companies in comuneros' lives, which can lead to distrust and social conflict. Hence, honest and two-way communication with the comuneros to help clarify misunderstandings and alleviate their concerns can reduce the negative impact of rumours, thus leading to a better relationship and strong partnership. In regards to this point, one mining company representative pointed out that by having a community relations office in the peasant community and its representatives living in the area, it's possible to support a closer communication and understanding of the comuneros' concerns and urgent needs, which can be an effective mechanism to develop a harmonious relationship.

"We were working for 9 years in Tacna and we had no conflicts [...] such a degree of empathy was achieved because we lived in the area with

⁵³⁹ Robles Mendoza (n 536).

them [...] we knew that there was a frost or an accident or a comunero had died [...]. We knew their needs at the right time [...]. We did not have intermediaries, such as NGOs [...]. Now, it is different, you outsource the service [...]. The NGO is not a company, so when there are problems, the NGO will not deal with them [...] Consequently, there is a distance between the company and the community.” [M10C3]

From the above quote, it is clear that due to the mining companies' institutional logic, centred on increasing profits and reduction of costs, some mining companies have been outsourcing the community relations activities to consultancies or NGOs, and for that reason there is no longer a close relationship with the comuneros. Failing to understand their needs, concerns and values can have negative consequences for the partnership.

7.4. Artefacts

According to Van Wijk and Finchilescu, artefacts are objects that express meaning within an organisation.⁵⁴⁰ In this study, artefacts express a physical and abstract representation of comuneros' social reality. Understanding and respecting these objects support a better relationship between comuneros and mining companies, thus fostering sustainable partnerships. Based on interviewees' responses the artefacts that were identified in this regard are: economic compensation, Quechua, gifts, infrastructure projects and CSR.

7.4.1. Economic compensation

According to interviewees, comuneros perceive economic compensation as a resource to be used to meet their urgent needs, such as access to food, education and health. In this institution, the economic compensation is received by comuneros as an exchange for their work in communal activities or in the mining company; as a compensation for the negative environmental impact; and as a donation. In the case of the lattermost, comuneros demonstrate creativity in the selection of donations that can be transformed easily as an economic payment. As an example of this

⁵⁴⁰ Van Wijk and Finchilescu (n 523).

comunero's institutional logic, one third-party interviewee pointed out how comuneros selected sheep as a donation to converted in money by selling them in the market to attend to their most pressing needs.

"Peasant community members requested a donation of eight to five sheep, and we did not understand why. We found that sheep could be converted into cash quickly. They were looking for cash, you had to understand that logic. They did not want development projects, but rather, to solve urgent needs." [T3C1]

Hence, some interviewees supported the perspective that an economic compensation is seen by comuneros as part of CSR initiatives, which are requested from mining companies. In this regard, one mining company representative [M12C3] pointed out that economic payments are part of comuneros' increasing demands. In this regard, the three case studies (Subsection 4.5.1) that includes the easement agreement (Minera paron) and the framework agreements (minera Antamina and Santa Luisa) specify a monthly and yearly economic payment to the peasant communities This demonstrates that an economic contribution is a recurrent comuneros' demands that is part of the CSR initiatives.

A point to consider is that this situation, impulsed by ambition and conflicting agendas, creates rivalry between families in peasant communities and has a detrimental effect on the traditional ways in which these families used to exchange products and support each other by sharing their produce.

"In many cases, families started fighting to get more money. This did not occur before because there was not much money. Before, we grew potato or cassava; we shared it or exchange our products with other communities." [C8C1]

Although the comuneros' increasing demand of economic payments can represent an effective CSR initiative to develop mining company's legitimacy, it can lead to a transactional dependent relationship between both parties that will not contribute to the sustainable development of comuneros.

7.4.2. Quechua

As previously mentioned, Quechua, as the traditional language spoken by Andean peasant communities, which contributes to the self-identification of comuneros,⁵⁴¹ being an instrument that unites native Andean people. For this reason, its usage can lead to the development of stronger relationships in the partnerships between comuneros and mining companies. However, Quechua, as a cultural-cognitive mechanism that demonstrates comuneros' values and providing better understanding of the terms in the partnership negotiation, is going through a process of institutional change.

Some argue that speaking Quechua develops a stronger bond with the community, thus fostering better relationships, as claimed by a mining company representative [M12C3]. It was contended that speaking Quechua contributes by ensuring that at least 50% of comuneros trust the person speaking Quechua, as it is felt that they “talk and think like them”, which leads to developing stronger bonds with the community.

However, others disagreed with this perspective, arguing that Quechua as an instrument that builds trust and supports better relationships with comuneros depends on the current level of conflict between comuneros and mining companies. For example, during a negotiation to resolve a conflict, Quechua represents a mechanism to share private information between comuneros, and they expect that mining company representatives will not understand it during the negotiation. In this regard, one mining company representative explained that, when there was tense negotiation between both parties, comuneros did not want the mining company representatives to understand when they were speaking in Quechua.

“I do not speak Quechua and I was working in Quechua areas [...] There is not a conclusive answer as to whether speaking Quechua builds trust. There have been cases that during a meeting between representatives of a mining company and a peasant community, some comuneros speak Quechua between themselves as they think you will not be able

⁵⁴¹ Robles Mendoza (n 536).

to understand [...]. In another case, there was a representative from a mining company who spoke Quechua, but the comuneros did not know, until he spoke and the comuneros requested him be taken out of the meeting.” [M10C3]

Although there is a change in the meaning of Quechua as a mechanism to build trust, the signed agreements between Mienra Paron, Minera Antamina and Santa Luisa and their nearby peasant communities (Subsection 4.5.1) are written in Spanish and there is not a translated version in Quechua. This demonstrates the preference to use Spanish and not the comuneros' native language when signing agreements that can have a negative social impact.

For that reason, some interviewees claim that there are other effective instruments that can be used to develop trust with comuneros instead of Quechua, for example the fulfilment of promises, as point out by a comunero [C13C3] and a government representative [G2C1]. Furthermore, one mining company representative asserted that the interaction and understanding of comuneros' issues are key tools for building trust.

So, its advantage will depend on the context [...]. I think that trust does not depend on the language but the treatment you have with the people. I am an agronomist, which helps when talking to peasants about topics of their interests. This has helped me more than speaking Quechua.” [M10C3]

7.4.3. Gifts

A gift is a cultural-cognitive element, where something is given to show affection and as an offer to welcome guests and visitors.⁵⁴² As a consequence, a gift symbolises the legitimation of the partnership. The difference when comparing this with donations, as explained in subsection 7.3.4, is that the gift is not requested by the recipient and it does not represent a transactional relationship between the parties, it being instead a manifestation of inclusion in the community.

⁵⁴² Cambridge English Dictionary, 'Gift' (2020) <<https://dictionary.cambridge.org/dictionary/english/gift>> accessed 13 July 2020.

During the fieldwork, it was noticeable that comuneros' gifts to visitors demonstrated their egalitarianism value dimension, their hospitality as well as reflecting part of their identity as a collectivist organisation. Some examples of their gifts are food, drinks, or handcraft. However, sharing gifts is going through a process of institutional change as it does not necessarily develop a strong bond with comuneros. Here, one mining company representative pointed out that exchanging of gifts with comuneros was considered an important instrument when seeking to build a strong relationship. Moreover, as pointed out in section 5.6, mining companies need to use their creative compliance to meet this comuneros' tradition, and this conflicts with expected organisational behaviour - considering that anti bribery policies that could classify a gift as an example of unethical behaviour.

"I accept the food that the comuneros give me, because it is part of the community relationship. I believe in social relations; I believe that this is not corruption." [M7C2]

However, similar to Quechua in Subsection 7.4.2, for comuneros, gifts received by mining companies have a different meaning based on the conflicting relationship between both parties. For example, in one peasant community that had a bad relationship with the nearby mining company, a comunero understood a gift from the latter, as a brave attempt to obtain their legitimacy in exchange.

"During a meeting, the managers of mining companies bought the lunch and drinks and they invited us to join them. Their intention was to buy us, however, they did not comply with their promises, so if that official comes back, he will not be welcomed here." [C3C2]

A gift is not necessarily seen as an exchange between comuneros and mining companies. Rather, it can take the form of an offering that is a special celebration that represents a payment to the motherland for the future prosperity of a project,⁵⁴³ such as a good harvest or the setting up to a communal business. Moreover, it can be perceived as a mechanism to

⁵⁴³ Pajuelo Teves (n 517).

mitigate a current misfortune in the community, such as drought, pestilence or increasing numbers of accidents. One mining company representative shared his experience about when comuneros gave an offering to the sacred mountain for the success of the mining operations as they perceived it would bring prosperity to the town.

“In a mine near Puno (region), we planned a drilling campaign [...] The community relations team organised a visit to the Quintaya mine with the community leaders and the mining officials so that they could see how a mine is [...] and how other peasant communities organised communal businesses. The comuneros requested the presence of the manager when signing the agreement. I thought there was going to be a rejection of the project, but they wanted an exact date when the mine would start operations, so the comuneros could make a payment to the land, so that the agreement will be beneficial for both groups.” [M13C2]

7.4.4. Infrastructure projects

Based on interviewee’s responses, infrastructure projects developed as part of CSR initiatives would appear to have two different purposes in their development. The first is to cover public services, such as motorways, schools, and hospitals, as mentioned in section 7.2.1. The second is to address their traditional understanding of activities that promote wellbeing, such as through monuments, bullrings, and cock fighting arenas.

Regarding the infrastructure projects that promotes comuneros’ wellbeing, interviewees pointed out that there is an institutional clash in its importance regarding how these are perceived by the different parties. Some argued that comuneros do not see any value on these projects, as they do not meet any of their urgent needs, such as poverty, health and education. For example, one comunero claimed that a cock fighting arena or bullring did not bring any income to cover some of his community’s needs.

“A cock fighting arena or bullring are not important for me. They don't give me any income.” [C13C3]

However, another view is that comuneros saw value in infrastructure projects as these contributed to the comuneros’ wellbeing. Here, a third-party representative pointed to the existence of a ‘cementing culture’ in

peasant communities. Moreover, according to him, the bigger size of an infrastructure project, the greater the perception of care and hence, respect from comuneros [T11C1]. Moreover, a mining company representative contended that the building of a bullring had developed a sense of pride and belonging to comuneros, in particular, because it was one of the biggest in the country. That interviewee also pointed to the different interpretations of wellbeing between western and native people population and that this should be respected.

“In 2005, the mayor and the population of La Encañada district (Cajamarca region) decided to prioritise the construction of a bullring [...] but they did not have access to public light, water service, and internet. In the same year, a very important government official came from Lima [...] who said it was a waste of money [...]. We did a survey and the local population was very proud of the bullring. It is the fourth most important bullring in the country [...]. It is used two or three times a year in the patronal feast [...]. Our criteria to judge things are not necessarily the best ones.” [M9C1]

7.4.5. CSR

The interviews revealed different understanding regarding the social responsibility of mining companies and as a consequence, there is an institutional clash regarding its voluntary and compulsory meaning, as shown in chapter three, section 3.2.

Some representatives from the four groups of stakeholders perceived that CSR should be organised on a voluntary basis and that there is no need to create a law to reinforce its compliance as other companies will replicate the voluntary practice of CSR to obtain legitimacy. This aligns with Bowfield and Frynas,⁵⁴⁴ who argue that voluntary compliance with CSR encourages other companies to pursue similar behaviour. In this regard, a third-party representative concurred with the voluntary sense of CSR and that it should not cover public services as these should be provided by the government.

“Social responsibility is voluntary and has been created in developed countries, where social services have been covered. Companies will

⁵⁴⁴ (n 139).

cover other type of expectations [...]. However, I find communities that live in poor conditions and companies have to cover social services. The social responsibility was not conceived in that way. Here, companies have to adapt to these conditions and it has been very expensive for mining companies.” [T9C1]

However, the previous view does not take in consideration that in developing countries with poor governance and a lack of public service in remote areas, mining companies are seen as a replacement of the government for the provision of public services as pointed out in subsection 7.2.1.

Other representatives from the same groups of stakeholders perceive that CSR is compulsory, seeing it in the form of compensation due to the negative socio-environmental impact of mining companies. One comunero agreed with this view, adding that the social responsibility of mining companies is not only evident in the payment of corporate taxes, but also, in relation to the restoration of the environment impacted upon by their operations.

“Due to water pollution, the company has to support me as part of their social responsibility, and not only based on tax payment. If they will take our water, they need to replace it so that my hills are green, and it is beneficial to the whole population.” [C1C1]

Regardless of the voluntary or compulsory sense of CSR, some respondents saw it as a transactional relationship, where the comuneros seek to have their short and long-term needs met. In return, the mining companies will gain comuneros' legitimacy and most importantly, they will not disrupt the mining operations. This was pointed out by a mining company representative, who also claimed that CSR is just a buzzword for companies.

“So why does a mining company build a road? We just want to get along with the community and don't get your project disturbed by them. It is a lie that we are good and responsible people. Nobody gives free money.

Sustainable development and social responsibility are buzzwords.”
[M7C2]

A shared institution by mining companies and third parties is that the social responsibility of companies varies according to the stages in the mining cycle.⁵⁴⁵ That is, each stage contains distinctive socio-economic circumstances that shape the community demands and the level of compliance of mining company promises. A complex feature in the mining industry relates to the ownership of mining projects, especially during the exploration stage, when a mining exploration company undertakes an economic feasibility study. If the proposed project is seen as being very lucrative, they may sell it to a bigger mining company. Consequently, at this stage mining companies tend to do not develop a CSR institutional logic as it is not clear if the mining project is economically feasible.

In contrast, in the development and operation stages, whether is the same mining company who owns the project, the company develops a robust CSR strategy as the project requires a long-term investment. This perspective was supported by a third-party interviewee, who pointed out that it is during these two stages when the company develops an institutional logic of CSR aimed at forging better relationships with comuneros and thus, avoiding any stoppages in production.

“The mining cycle has several stages including: exploration, development, operation, and closure. Each of them has sub stages and generates different social circumstances [...]. The exploration companies want to spend the least and don't want a long-term commitment, because they just want to sell the project. To move to the development stage, mining companies can 'sell their souls to the devil' to do so [...]. During the exploration and development stages there will not be sophisticated CSR [...] For that reason, they start talking seriously about social responsibility during the development and operation stages.” [T9C1]

⁵⁴⁵ The mining life cycle can be divided into four stages: exploration, development, operation and closure; British Columbia Mine Information (n 77).

7.5. Answering Research Question Three - discussion

How do cultural-cognitive elements of institutionalism shape the dynamics between comuneros and mining companies?

The cultural-cognitive elements of institutionalism are symbolic representations of social reality, including: words, signs and gestures. This symbolic representation is shaped by the interaction with the regulative and normative elements of institutionalism. Understanding the meaning of these symbols supports the definition of CSR, the identification of CSR initiatives and the development of partnerships in this organisational field. Hence, it is important that mining companies carry out historical studies in the nearby community so as to understand their symbolic representation of reality.

The poor relationship between stakeholders since the 1990s that favours the dominance of mining companies in the economic and political arena led to a culture of distrust regarding bilateral partnerships between mining companies and comuneros, resulting in social conflict. In this situation, protest becomes an effective instrument to get a fast response from mining companies and government in meeting comuneros' demands, and for that reason, a protest triggers the development of partnerships due to stakeholders having to meet to find a solution to the conflict.

The development of partnerships has been going through a process of institutional change from bilateral agreements towards tripartite ones between comuneros, mining companies and government. In tripartite agreements, a mining company performs its role as an agent of development that brings in other participants, such as the government, to achieve the partnership's aims. The government provides technical support and co-funds CSR initiatives, meanwhile third parties provide the expertise in the development of these initiatives.

The members of the partnership need to understand the institutions and institutional clashes that shape their interactions in order to gain legitimacy. For example, stakeholders need to respect and participate in comuneros' rituals and

celebrations; mining companies need to reconcile their policies and code of conduct with the comuneros' value dimensions. Hence, it is necessary to live in the peasant community to understand comuneros' views of stakeholders, rituals and artefacts. Some examples of rituals include formal and informal dialogue with comuneros, participating in the daily activities, and a two-way communication to manage the potential misunderstanding of mining companies' performance caused by rumours. Moreover, some artefacts that mining companies need to understand and respect to develop a partnership with comuneros include gifts, speaking Quechua, infrastructure projects and economic compensation.

In this organisational field, the meaning of CSR to comuneros has both the compulsory meaning as a compensation to attend to their urgent needs. Given the limited presence of government in remote areas of Peru and lack of public services, mining companies are seen as agents of development in place of the government. Moreover, CSR has a voluntary meaning in relation to it addressing the comuneros' long-term needs to develop capabilities such as education, health and entrepreneurial programmes. These voluntary and compulsory interpretations of the meaning of CSR in the Peruvian mining industry demonstrate that needs of the community are different between a developed and a developing country. Hence, the definition of CSR should be tailored according to the distinctive characteristics of each country. A summary of the cultural-cognitive elements of institutionalism is provided in Table 7.2.

Table 7.2: Summary of cultural-cognitive elements of institutionalism in the development of partnerships

<p>Institutions:</p> <ul style="list-style-type: none"> • Mining companies need to develop CSR initiatives to build trust. • Government's disinterest in addressing comuneros' issues. • Government provides legal protection to mining investment. • Comuneros perceive a lack of positive socio-economic impact of CSR initiatives developed by third-parties. • Comuneros expect mining companies to provide training and jobs at the mine. • Comuneros' understand education as the most important pillar of development that should be included as a CSR initiative. • Protest is a legitimate mechanism practised by comuneros to achieve social justice and meet their demands. • Mining company participation in peasant communities' festivities helps to develop a strong bond through: donations and physical interaction. • Rumours pertain to a ritual that represents comuneros' cosmovision. • Mining companies need to have fluent communication with comuneros to tackle the negative impact of rumours. • Comuneros understand economic payment as a way to meet their urgent needs. • Mining companies' CSR investment depends on the stage in the life cycle of the mine.
<p>Institutional Logic:</p> <ul style="list-style-type: none"> • Comuneros perceive that the bloodier the protests, the easier to get their demands met. • Mining companies' logic is centred on increasing profits and reducing costs. • Comuneros demonstrate creativity in the selection of donations that can be transformed easily as an economic payment
<p>Institutional Clash:</p> <ul style="list-style-type: none"> • The role of mining companies as agents in replace of the government in the provision of public services. • The dual role of third parties as contractors of mining companies and protectors of comuneros' rights. • Mining companies' compliance with their codes of conduct and comuneros' demands. • Contradictory comuneros' views on infrastructure projects aimed at attending to comuneros' wellbeing. • Contradictory views that support the compulsory and voluntary meaning of CSR.

Institutional Change:

- Comuneros are improving their negotiation capabilities in partnership agreements.
- Partnerships are changing from bilateral towards tripartite agreements.
- Mining companies are including comuneros in the prioritisation of CSR initiatives to attend to their needs.
- Speaking Quechua does not necessarily lead to the development of a strong bond with comuneros.
- Sharing gifts does not necessarily develop a strong bond with comuneros

Chapter Eight - Summary and Conclusion

This chapter offers an overview of the key findings of this study by identifying the theoretical framework, the research design and answering the research question. Similarly, this chapter identifies the contribution to knowledge, limitations, areas for further research and final reflections.

8.1. Introduction

The objective of this study is to examine the regulative, normative and cultural-cognitive elements under the New Institutional theory that shape the understanding of Corporate Social Responsibility (CSR) through the development of social partnerships in the Peruvian mining industry between Andean peasant communities, mining companies and government in Ancash region.

Chapter two provides key socio-demographic and economic characteristics of Peru that demonstrate a systemic oppression of native peoples' rights after their independence. Regarding which, the 2017-national census shows that 60.2% of the population self-identifies as mestizo or white and Amerindian ancestry, meanwhile 22.3% is Quechua, 2.4% is Aymara, and 1.1% is native / indigenous people. This classification has an impact on mining companies' perception that only the native / indigenous people⁵⁴⁶ should be protected by indigenous people's law; and not the Quechua, Aymara or mestizo populations who live in the Andes near mining operations and claim the same rights.

In addition, chapter 2 highlights that due to the conflicting impact of the mining industry that resides on the positive economic contribution of mining and increasing socio-environmental conflicts; the government endeavours to promote social partnerships between peasant communities, mining companies and government resolve these conflicts. Although there is not a specific law that promotes social partnerships in Peru, there is an ecosystem of law that fosters

⁵⁴⁶ INEI, 'Censos Nacionales 2017: XII de Población, VII de Vivienda y III de Comunidades Indígenas' (n 45).

early development of partnerships by protecting peasant communities' rights in the Andes, including the Work for Taxes law; the General Environmental law, the Prior Consultation law, and the Peasant Community law. It is important to highlight that according to the latter, a qualified comunero is an official member of the peasant community approved by the General Communal Assembly

8.2. Theoretical framework

Chapter 3 revises the CSR literature to understand the evolving definition of the social responsibility of companies shaped by the scrutiny of stakeholders, which are the groups within a society that have an interest in, or are affected by, business operations.⁵⁴⁷ Regarding which, the theory of the firm focusses on the maximisation of shareholders' profits, meanwhile the CSR actions only benefits the stakeholders who have a legally binding relationship with the company. Consequently, there is a call to revise this theory as it does not take in consideration the complexity of current market conditions and the participation of a broad range of stakeholders.

The agency theory provides lenses to analyse CSR based on the relationship between two internal stakeholders; the principal, who is represented by the owner or shareholder; and the agent, who can be the board of directors or executives that work on behalf of the principal. Consequently, CSR policy and CSR investment are subject of the conflicting interests between these two internal stakeholders. For that reason, it is required to analyse the impact of not only the internal but external stakeholders in the understanding of CSR.

The stakeholder theory is one of the most relevant CSR theories as it takes in consideration the pressure from internal stakeholders such as shareholders employees; and external stakeholders including the government, consumers,

⁵⁴⁷ Carroll, 'Three-Dimensional Conceptual Model of Corporate Performance' (n 134); Carroll, 'The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders' (n 135); Carroll, 'Corporate Social Responsibility: Evolution of a Definitional Construct' (n 135); Hill and others (n 135).

community and third parties, that shape the corporate decisions on CSR. However, a holistic approach is required to understand CSR not only based on the impact of these stakeholders, but on external factors such as the legal, socio-economic and cultural aspects that shape a deeper understanding of CSR. Therefore, an inter-disciplinary framework is needed.

The sociological standpoint of New Institutionalism theory offers new lenses to understand CSR as it goes beyond the identification of stakeholders. Instead it offers an opportunity to analyse how institutions, that refer to a set of rules, beliefs and expectations,⁵⁴⁸ favour participatory mechanisms to understand the social responsibility of companies in the mining industry. According to Scott, Institutions are shaped by regulative, normative and cultural – cognitive elements, in the form of law, value dimensions, and symbols, respectively. The prioritisation of these elements develops a distinctive logic of stakeholders' legitimate actions and leads to behavioural change.

The organisational field is the space where stakeholders share their institutions and logic of actions. In this study, the organisational field is represented by the Peruvian mining company where the following stakeholders interact: Andean peasant communities, mining companies, government and third parties in Ancash region. For that reason, the new Institutional theory offers a new lens to understand how native and non-native people perceive CSR.

Under the lenses of New Institutionalism, this study endeavours to answer the following research question: How do the regulative, normative, cultural-cognitive elements of the New Institutional theory impact on the understanding of Corporate Social Responsibility (CSR) in the form of social partnerships in the Peruvian Mining industry. To answer the main research question and analyse each element of institutionalism, the following sub questions were formulated:

- Q1: How do regulative elements of institutionalism shape the dynamics between comuneros and mining companies?

⁵⁴⁸ Scott, 'The Adolescence of Institutional Theory' (n 270).

- Q2: How do normative elements of institutionalism shape the dynamics between comuneros and mining companies?
- Q3: How do cultural-cognitive elements of institutionalism shape the dynamics between comuneros and mining companies?

8.3. Research design

Chapter four explores the methodological framework that endeavours to capture the voices of native and non-native people who are the subject of study. Similarly, the framework of the research onion, ⁵⁴⁹ is followed as it provides a robust structure of the research design.

The researcher's ontological assumptions acknowledge the existence of non-native and native peoples' conflicting interpretations of CSR due to a historic clash of legal and socio-economic structures that favour mining investment over native peoples' rights. As the research methodology takes in consideration both a western and indigenous forms of knowledge; social constructivism is the most suitable stance as it considers that reality is socially constructed by the meaning of the shared ideas through interaction and reflection. Similarly, the study follows an interpretivist epistemological position as it assumes that social reality is highly subjective, shaped by participants' perceptions.

The best-fit research follows a combination of qualitative multi-methods, including interviews and observations, as it permits a more in-depth, exploratory study. Moreover, the research carried out 53 interviews in two stages; from 15th to 30th August 2016, seven interviews were conducted in Lima; and from June 14th to September 6th, 2017, 46 interviews were undertaken in Ancash and Lima regions.

⁵⁴⁹ Saunders, Lewis and Thornhill (n 321).

As comuneros distrust any person who is not from their community, the presence of an observer will alter their normal behaviour. For that reason, to build trust and gather their native views, the researcher could not only become an external entity that impartially observe their behaviour. Hence, the researcher has to go further and for that reason he engaged with comuneros' traditional activities and celebrations such as the Independence Day, offerings and daily activities such as informal conversation in the city square or when sharing food and drink.

Additionally, an indigenous methodology is implemented as it takes in consideration the ontological and epistemological stances of native people, represented by comuneros, to understand their interpretation of CSR and the development of social partnerships, and addressing their social justice issues to protect their rights. Consequently, the application of indigenous methodology involves a change in the relationship between the researcher and the native people.

Similarly, the researcher used secondary data in the form of relevant documentation such as three partnership agreements between mining companies and comuneros; and quantitative methods in the form of socio-economic and environmental indicators, that provided background information on the impact of the mining industry in Peru. All these datasets allow for triangulation, to enhance the understanding of the participants' beliefs and perspectives on social reality.

8.4. Answering the Research question

How do the regulative, normative, cultural-cognitive elements of the New Institutional theory impact on the understanding of Corporate Social Responsibility (CSR) in the form of social partnerships in the Peruvian Mining industry?

The understanding of CSR and development of partnerships in the mining industry is shaped by three elements of institutionalism: the regulative elements, expressed in the law; the normative elements, that are seen in comuneros' values; and

cultural-cognitive elements, that is the symbolic representation of CSR and partnerships.

8.4.1. The impact of regulative elements of institutionalism

According to Scott,⁵⁵⁰ the regulative elements of institutionalism are composed by the rules of society on which appropriate behaviour is legitimised by law, meanwhile inappropriate behaviour is legally sanctioned.

Historically, native people's population in Peru has been facing a systemic discrimination of their rights even after their Independence. Regarding which, since early 1990s, the Peruvian regulation supported a neoliberal economic model centred on the promotion of private investment, without taking in consideration the social responsibility of companies, and the protection of the minority groups in the interior of Peru.

Since the 1990s and as a response to the socio-economic and environmental disruption of mining companies in remote Andean areas, the number of social conflicts has been increasing. Consequently, there has been a change in the regulative elements of institutionalism by the development of an ecosystem of law, which is a set of law that promotes social partnerships between the private industry and the civil society to solve social conflicts. Although there is not a specific law that promotes this type of partnership, there has been other attempts such as public-private partnerships between the government and private companies.

⁵⁵⁰ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

In this ecosystem of law, the Work for Taxes law is the most important legal tool that fosters early development of partnerships by empowering civil society to identify infrastructure projects and services to cover their needs. The private company will be responsible to cover its cost and execution in an exchange for a reduction in annual taxes equivalent to the total value of the work.⁵⁵¹ However, it is necessary that local government and peasant community leaders receive training about the application of this legal tool to evaluate its implementation in their communities.

The Prior Consultation Law protects indigenous and native peoples' rights and permits a dialogue space between mining companies and comuneros in the form of workshops that explains the characteristics of the mining project and its impact on comuneros' rights. Similarly, it gives mining companies the opportunity to gather comuneros' concerns and expectations about the mining project that can support the development of CSR initiatives.

However, the Prior Consultation law needs improvement in key areas, including the development of official mechanisms that identify the groups that hold the right to consultation; clarification in the application of the law, and the right of vetoing mining projects. Moreover, some interviewees from the government and mining companies perceive that some peasant communities in Ancash region do not meet the criteria to be acknowledged as native people.

The ecosystem of law that promotes social partnerships demonstrates a disconnection with the comuneros' customary law as the latter understand protest as a legitimate way to defend their rights against the government and mining companies' actions. Similarly, as the government did not develop a specific law to promote the development of social partnerships, this responsibility resides on private initiatives undertaken by companies.

⁵⁵¹ Ministerio de Economía y Finanzas (n 118).

The government demonstrate lack of governmental capabilities to clarify the scope and monitor the compliance of the ecosystem of law that promotes partnerships. Consequently, comuneros are confused about its application; meanwhile mining companies demonstrate their creative compliance by finding legal artifices to avoid the compliance of the regulation.

8.4.2. The impact of normative elements of institutionalism

According to Scott,⁵⁵² the normative elements of institutionalism encompass a set of values, beliefs and expectations of the desirable behaviour that is expected from stakeholders. In this study, these elements are composed by five value orientations defined by Schwartz,⁵⁵³ which were identified by interviewees: egalitarianism, mastery, hierarchy, harmony and embeddedness. These values guide stakeholders' behaviour regarding the meaning of CSR and development of social partnerships.

Egalitarianism is the key value orientation as it endeavours to overcome the systemic oppression that native people face after their independence by promoting collaboration, the common welfare, distribution of opportunities and the view of others as moral equals.⁵⁵⁴ As historically, mining companies and government struggle to demonstrate comuneros' egalitarian values, there is a culture of dispositional distrust on which comuneros distrust any person and organisation that do not belong to their peasant community..

To overcome this, mining companies need to develop different level of trust including:

- **rational trust** on which comuneros assess the positive short and long-term impact of CSR initiatives such as job opportunities and the development comuneros' entrepreneurial capabilities;

⁵⁵² Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

⁵⁵³ Schwartz, 'A Theory of Cultural Values and Some Implications for Work' (n 472).

⁵⁵⁴ Schwartz, 'A Theory of Cultural Value Orientations: Explication and Applications' (n 469).

- **affinitive trust** to demonstrate communal values such as the promotion of dialogue and the compliance of verbal and non-verbal agreements; and
- **procedural trust**, on which the signed partnership agreement represents an opportunity to assess a mining company's compliance of procedures towards CSR.

Mastery is the second important value dimension on which comuneros try to achieve their demands during partnership negotiations. As a consequence, comuneros demonstrate two levels of ambition. It's important to highlight that in both types of ambition, comuneros demonstrate they want to be responsible for their own development. The two levels of ambition are as follows:

- **a community-wide ambition**, on which they are seeking for the best outcome for their own community such as economic payment and job opportunities due to mining investment in their lands;
- **group ambition**, comuneros pursue economic group goals, such family businesses' goals, and not the whole community including.

Hierarchy, a third important value dimension, on which comuneros take two different stances: in the first one, they try to change the hierarchical system in the Peruvian mining industry that promotes a systemic oppression of their rights. As a consequence, comuneros seek stakeholders to appreciate cultural differences such as the indigenous epistemology as a legitimate way of knowledge. Meanwhile, in the second stance of a hierarchical system, the mining companies' privileged position in society, due to its economic power, has been normalised by comuneros. However, the latter are aware that the mining companies' economic power varies according to the company size, therefore their demands will vary according to this power.

Harmony is the fourth key value dimension and is related to the connection to nature. Here, some peasant communities in Ancash region are going through a process of institutional change as there is a weaker belief in the Pachamama, or motherland; and Apus, or sacred mountains. This situation is used by mining companies to claim that these comuneros are not entitled to be protected by native people's rights. More critically, there are claims that comuneros use the connection to the environment as a negotiation tool during partnerships to reinforce their demands as a compensation for the negative environmental impact of mining companies.

During partnership negotiations, groups within the same peasant community demonstrate a clash of value dimensions that are part of the societal problems define.⁵⁵⁵

The first societal problem is related to the maintenance of social fabric by members of the same community. This is demonstrated in the clash of egalitarian and mastery value dimensions, as the former looks for common good of the whole community; meanwhile the latter favours the protection of the economic group and rivalry between peasant communities. This clash of value dimensions in the same community leads to internal conflicts to meet their economic group or community goals.

The second societal problem is related to the relationship between people and their natural world.⁵⁵⁶ In this instance comuneros and mining companies demonstrate a change in the harmony value dimension, on which some comuneros tend to have a stronger connection to nature than mining companies. However, as it was mentioned previously, some comuneros are losing this value and instead are using it as a negotiation tool during partnerships. Similarly, comuneros are facing a change in the embeddedness value dimension related to the respect for traditions, as comuneros are adopting elements of modern cities including music, language and clothing; as a consequence, they are losing their customs.

⁵⁵⁵ Schwartz, 'A Theory of Cultural Values and Some Implications for Work' (n 472).

⁵⁵⁶ Schwartz, 'A Theory of Cultural Value Orientations: Explication and Applications' (n 469).

In this scenario, social partnerships face a key challenge when promoting CSR initiatives that favours western forms of wellbeing and modernity that have a negative impact in the maintenance of the global south's traditions and culture. For example, regarding the construction of a hospital or school that are part of CSR initiatives, offering services in Spanish and not in Quechua; promotes a symbolic appreciation to Spanish language rather than the native one.

8.4.3. The impact of cultural - cognitive elements of institutionalism

According to Scott,⁵⁵⁷ the cultural-cognitive elements of institutionalism are composed by the cognitive meaning of social reality that is embedded in the symbolic representation of culture including words, signs and gestures. This study classified the symbolic representation of CSR and social partnerships in three components: stakeholders and their role in the partnership, the rituals that are a set of actions and words that are performed regularly; and artefacts, that are the physical and abstract representation of things that are not a living person, animal or plant.⁵⁵⁸

The interviews have identified a process of institutional change in the social partnerships in the mining industry: from a bilateral agreement between comuneros and mining companies, towards a tripartite agreement that includes the participation of the government. Regarding this matter, the interviews identified the participation of third parties as another member of the civil society. Consequently, social partnerships in Peru involve the participation of comuneros, mining companies, government and third parties.

- **Comuneros** have been increasing their CSR demands and improving their negotiation capabilities during the development of partnerships. Moving forward, they should be more involved in the prioritisation of CSR initiatives.

⁵⁵⁷ Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

⁵⁵⁸ Cambridge Dictionary, 'Artefact' (n 316).

- **Mining companies** need to build by attending comuneros' urgent needs through the development of CSR initiatives including, offering job opportunities, building entrepreneurial capabilities, and constructing public infrastructure including educational, transportation, health and telecommunication infrastructure. However, there are contradictory views whether mining companies or the government should be responsible for the development of public infrastructure projects in rural areas.
- **The government** should provide regulatory support in the development of social partnerships and CSR initiatives in remote rural areas; and if possible they should co-fund infrastructure projects that attend public services.
- Lastly, **third-parties** such as NGOs or consultancies occupy an advisory role to support the meetings of comuneros' demands, and in the execution of CSR projects.

The rituals are traditional actions in the comuneros' social life that demonstrate the compliance of shared values. This can be appreciated when comuneros invite a non-comunero to participate in their rituals such as offerings to an Apu or pachamama, this represents an act of legitimacy. Moreover, the participation in comuneros' communal work; a protest and festivities are mechanisms to gain comuneros' legitimacy due to the compliance of comuneros' common good values. Therefore, mining companies should engage in comuneros' rituals, such as the participation in the patronal feast and independence day not only through making donations but engaging in traditional activities, such as informal conversation, sharing food and drink with comuneros. Similarly, comuneros should participate in the prioritisation of CSR initiatives that includes: job opportunities, education programmes, and health campaigns.

Artefacts express a physical and abstract representation of comuneros' social reality. The legitimacy obtained from artefacts and rituals is not static as it changes according to the level of conflict between comuneros and mining companies. For example, the giving and acceptance of gifts is a symbol of trust between both parties; however, comuneros do not accept any form of gifts during a conflict as it represents a bribe to legitimate inappropriate mining company's behaviour. Therefore, mining companies need to understand this change in the meaning of artefacts to tailor their practices so they are aligned to comuneros' values.

Interviewees' perceptions demonstrate an institutional clash in the understanding of CSR as voluntary and compulsory actions. Some interviewees claim that CSR is compulsory as companies should develop public infrastructure that are not provided by the government; meanwhile other views perceive that CSR is voluntary as companies should provide different types of infrastructure projects to attend luxury services or through donations to society. The voluntary sense of CSR is applicable in developed countries, where public services are attended by the government, but developing countries face a different situation.

In developing countries where there are scarce governmental capabilities to attend public services in remote areas, the view of CSR has both compulsory and voluntary components. In the compulsory meaning of CSR, the latter is seen as a compensation due to the negative impact of mining operations. Consequently, companies are seen as agents of development who must attend comuneros' urgent needs such as employment, health, and access to public services that are not covered by the government. Similarly, in the voluntary meaning of CSR, companies need to attend comuneros' less urgent needs, such as access to education to improve their capabilities.

An important institution shared by interviewees is that mining companies' institutionalisation of CSR is developed through the stages of the mining cycle. In this regard, as most of the mining investment goes to the

exploration stage; mining companies demonstrate a weak engagement with CSR as a long-term investment. Meanwhile, in the development and operations stage is when mining companies develop a strong engagement with CSR by developing strategies and increasing investment in CSR initiatives. For that reason, mining companies want to gain comuneros' legitimacy and avoid any potential protest that may stop mining operations and therefore increase their operation costs.

These different views of CSR demonstrate that its meaning is socially constructed and varies according to the stakeholders' institutions in the organisational field where they operate. For that reason, in developing countries, the social responsibility of companies is shaped by the interaction between native and non-native people. Arellano-Yanguas and Bernal-Gómez agree that the collaboration between businesses and civil society support the identification and accomplishment of socially valuable objectives.⁵⁵⁹

8.4.4. Institutional clashes between three elements

Within the same organisational field, the clashes between the regulative, normative and cultural-cognitive elements of institutionalism are shaping the understanding of CSR and the development of CSR initiatives; and represent an opportunity to change stakeholders' institutions and their logic of action.

In this study, the regulative elements are represented by law that promotes mining investment, legitimate the behaviour of stakeholders in Peruvian mining industry and provide sanctions in case of no compliance. This legal framework clashes with the normative elements, such as comuneros' values; and cultural-cognitive elements, such as comuneros' symbols of reality. For that reason, the regulative elements trigger an institutional clash against the other two to gain a legal legitimacy of mining operations. Similarly, Meyer and Rowan argue that the coercive mechanisms used in

⁵⁵⁹ Arellano-Yanguas and Bernal-Gómez (n 194).

the regulative elements of institutionalism are used to balance the institutional order, and gain legitimacy, stability and survival.⁵⁶⁰

As a response to the government's coercive mechanisms to legitimate mining companies' behaviour, comuneros' use protests, as legitimate rituals within the cultural-cognitive elements of institutionalism, to balance the power of mining companies and government. Moreover, through protests comuneros demonstrate an egalitarian value dimension as they demand equal conditions in the negotiation with mining companies and government to achieve social equality.

Another example of the clash between cultural-cognitive and regulative elements of institutionalism is seen when protests are used to change the legal mechanisms that are perceived to be against comuneros' rights and values. An example is seen in the case of Gregorio Rojas, a peasant community leader in Fuerabamba (Apurimac region) who was accused of belonging to a criminal gang and sentenced to imprisonment. However, comuneros requested the immediate release of this leader as part of their demands to resolve the social conflict with mining companies, which was accomplished by the latter.⁵⁶¹ The government removed the charges and the leader was released. This demonstrates that law can be changed through protest as it does not meet the comuneros' rights of representation and their symbolic meaning of leaders.

The interviewees' responses demonstrate that the institutional clash can occur between a parent and subsidiary companies that belong to different organisational fields. In this scenario, subsidiaries' compliance with the three elements of institutionalism from the host country (for example law, values of behaviour and indigenous peoples' demands) can clash with the home country counterparts that do not have indigenous people. This is

⁵⁶⁰ Meyer and Rowan (n 268).

⁵⁶¹ Peru21, 'Carlos Morán: "Con La Liberación de Rojas, Se Dan Todas Las Condiciones Para El Dialogo Con El Gobierno"' *Peru21* (Lima, 30 March 2019) <<https://peru21.pe/peru/carlos-moran-liberacion-rojas-dan-condiciones-dialogo-gobierno-video-nndc-468906-noticia/>> accessed 18 July 2020.

supported by Scott who argue that institutional clashes occur between subsidiaries in the host country and parent companies in the home country.⁵⁶²

A summary of the extended application of the theoretical framework is seen in Figure 8.1

⁵⁶² Scott, *Institutions and Organizations : Ideas and Interests* (n 278).

Organisational field: Mining industry in Peru

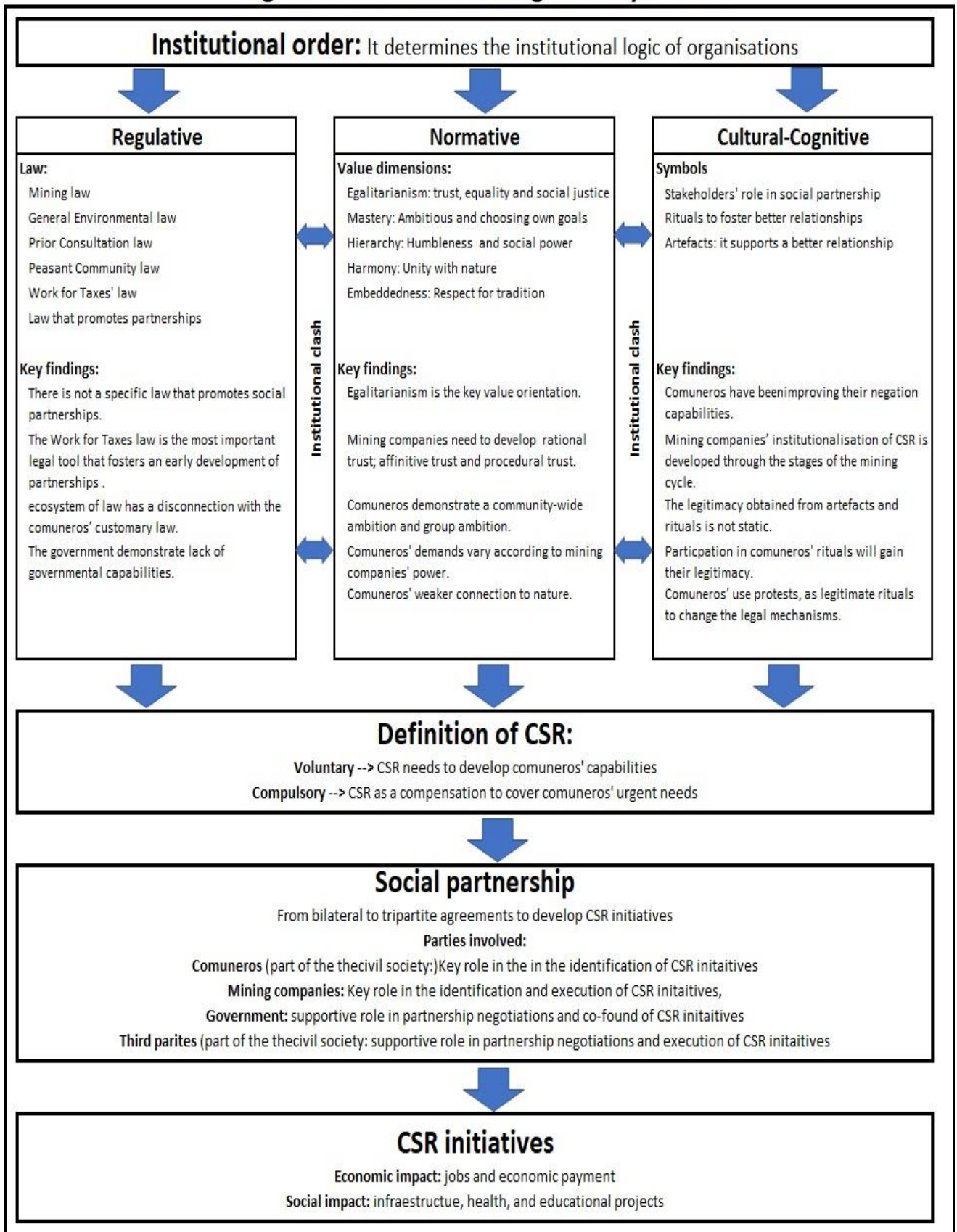


Figure 8.1: Extended application of theoretical framework

8.5. Contribution to Knowledge

This study contributes to the literature of CSR under the lenses of the new institutional theory applied in organisational studies developed by Scott who explores how regulative, normative and cultural-cognitive elements of institutionalism shape the principles of organisational behaviour,⁵⁶³ on which companies adapt their behaviour based on the socio-economic, political, cultural systems of each country.⁵⁶⁴

This study expands the studies of CSR in the Andean region,⁵⁶⁵ by providing empirical evidence in the understanding of CSR and development of social partnerships between peasant communities, mining companies and government. This is an important contribution as the majority of the CSR research in Latin-American countries centred on developed countries such as Chile, Brazil and Mexico⁵⁶⁶.

The implementation of qualitative and indigenous methodology represents an innovative research methodology to provide an in-depth study of CSR in developing countries. Similarly, indigenous methodology provides two clear benefits in the study of CSR in native Population. First, it gives the opportunity to listen to the unheard voices of native people and appreciate their ways to understand CSR; and second it re-asses the researcher's role as an active member in the study and promoting social justice to native peoples' communities.

Finally, this research contributes to the studies that assess the impact of participatory approaches of CSR,⁵⁶⁷ on which partnerships represents an innovative form of corporate governance to develop social justice.

⁵⁶³ *ibid.*

⁵⁶⁴ Dirk Matten and Jeremy Moon, "'Implicit" and "Explicit" CSR: A Conceptual Framework for a Comparative Understanding of Corporate Social Responsibility.' (2008) 33 *Academy of Management Review* 404 <<http://web.a.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=19526706-8f7d-4f3f-9158-8a4aaa034258@sessionmgr4004&vid=1&hid=4212>> accessed 20 April 2015.

⁵⁶⁵ Haslam (n 33).

⁵⁶⁶ *ibid.*

⁵⁶⁷ Solomon, Katz and Lovel (n 35).

8.6. Limitations

This thesis attempts to provide a comprehensive analysis of the impact of the three elements of institutionalism in the definition of CSR and social partnerships in the mining industry, however, it is worth mentioning that this study remains subject to some limitations that do not detract from the quality of this qualitative study.

Firstly, two out of the three elements of institutional order, namely normative and cultural-cognitive elements, as represented by the value dimensions and symbols, respectively, are shaped by distinctive historic elements, such as a process of colonisation and poor governance, and distinctive local idiosyncrasies, such as socio-economic impact of mining. Hence, generalisation based on this study's results might be restricted to the specific normative and cultural-cognitive elements. Having said that some findings are applicable in some other Andean zones that share similar backgrounds, such as Bolivia, Colombia and Chile.

Secondly, considering that it was possible to conduct 53 interviews, there is a low representation of female participants that could provide a different perspective regarding the normative and cultural-cognitive elements of institutionalism. Even though the researcher asked for male and female volunteers at two communal assemblies, there was not much response from female participants, which would appear to demonstrate the current distrust culture from peasant communities towards strangers who are not from the nearby area.

Thirdly, there was difficulty in accessing CSR information such as easement and framework agreements, especially from small and medium size mining companies in Peru. This increased the difficulty in gaining a better understanding of CSR and social partnerships in the mining industry.

Fourthly, an ethnography study that involves more time living with peasant communities would be beneficial in terms of gaining better understanding of their epistemological stance. However, there was limited financial limitations to extend the stay in the geographical area to conduct the study. The research was

completed solely by the researcher, who covered the accommodation and other expenses so as to be able to meet the participants in Ancash and Lima regions, whilst the University of Westminster provided funding to cover the flights to Peru and the insurance.

Fifthly, speaking Spanish and not Quechua was a limitation in the research in order to gain insights into the cultural representation of reality. Having said that, most of the peasant communities that the researcher visited were bilingual. Due to financial limitations, the researcher decided to transcribe the interviews in Spanish and then, translate the most recurrent themes into English. Understandably, there is no such as perfect translation, as some words from Spanish and English don't have the same meaning, only approximate. For example, the word 'pago a la tierra', which can be literally translated to 'payment to the land', can be understood as a monetary payment to somebody. However, in the context of the study, it refers to offering a ritual where comuneros gather, give a toast to the land and talk among each other whilst chewing coca leaves.

Sixthly, Covid-19 pandemic had a negative impact in the research due to issues with regards to three factors:

- The research experienced limited access to some documentation such as Spanish books that were not available on a digital version. Due to the pandemic it was not possible to go to the libraries to use those required books.
- During the first weeks, the researcher did not have the appropriate equipment to work from home such as a desk and chair, which deteriorated into back pain, having then to spend a considerable amount of time recovering from it. Further, there was no access to a printer, which could help in revising earlier versions of the thesis.
- The researcher's anxiety had a detrimental effect during the first weeks of the pandemic due to the impossibility to travel back home and support his family in Peru.

8.7. Areas for further research

Based on the main findings and limitations when undertaking this empirical research, the following areas for further research were identified:

This research could be further enriched by using multiple case studies and conducting interviews amongst a wider group of companies in the extractive industry, including oil, gas and mining companies in South America. This could provide better understanding of the conflicting organisational logics between companies and local communities and how they shape the formation of social partnerships in the extractive industry.

A further study can focus on the analysis of a company's mechanisms of regulative institutionalism including code of conducts and corporate policies. Moreover, the analysis could focus on the institutional clashes between the regulative elements of institutionalism that companies and the government follow.

Another area of further research resides on the analysis of the effectiveness of partnership models developed by international organisations such as ICMM or the World Bank; in comparison to models developed by local mining companies in Peru.

This study has uncovered one of the most popular CSR initiatives requested by comuneros as being the development of local enterprises (Subsection 7.2.1). For that reason, further studies should investigate the types of local enterprises developed in peasant communities, including individual, family or communal enterprises, and their impact on the normative elements of institutionalism. It would also prove beneficial to investigate the types of services provided, scope of operations and the level of dependence on the extractive industry.

This study has involved analysing comuneros' perception of CSR initiatives developed by a small, medium and a large-size mining companies in Ancash region based on the partnership agreements signed between both parties.

Interestingly, a few interviewees pointed out the need to research the performance

of small and artisanal mining companies. Consequently, further research is required to analyse the CSR initiatives and the form of social partnerships developed by artisanal and small Peruvian mining companies.

8.8. Final reflections

My final reflection centred on two areas.

The first one is related to my evolving PhD journey that started in January 2015 and which was paved by different challenges. Personally, I did not expect to undertake research, like many others I have been affected by imposter syndrome, which made me think that I did not have the capabilities and skills to complete the research. I encountered other challenges including the change from the Business School to the Law School, which led to a change in the supervisory team in late 2015. Other changes I didn't plan for were a change from studying full-time to part time in late 2016, a loss in the supervisory team, and some technical challenges when undertaking the research.

This evolving PhD journey allowed me to develop a great deal of capabilities and skills. I improved my academic writing and research skills. I discovered that persistence is key to success in any project. I deepen my understanding of the communities I investigated. For example, when undertaking research in native people's communities, I changed my role as a researcher including a reconnection to the different manifestations of their epistemology such as oral traditions, participation in festivities, informal conversations when sharing food and drink; and unlearned some conventions of western research ethics when finding potential interviewees and using practices legitimated by comuneros.

During this evolving PhD journey, my resilience allowed me to overcome the recurrent temptations to withdraw my studies by re-evaluating my professional priorities. As a result, I found the job a job that I love, teaching at Westminster Business School, which gave me the additional motivation to complete my studies. I am aware that there are many things that I need to improve as an academic such

as critical thinking and time management. The journey continues and I am looking forward to getting to know this new person that I am becoming, as some people say that we will not be the same after we complete a PhD.

The second area that I would like to reflect is related to the three elements of institutionalism and its application in my personal life during the Covid19-pandemic. The new normality is shaped by the institutional clash between the regulative, normative and cultural-cognitive elements of institutionalism. This should give us an opportunity to reflect on how our liberties are affected by law, our values and the symbolic representation of reality. We should reflect on laws that have an impact on health, education and employment; and whether the restrictions to our normal life are worth following so that we protect the vulnerable and therefore benefit society.

Then, we could reflect on whether we need to reassess our values, such as egalitarianism, harmony and embeddedness in order to reduce the gap between communities who live in abundance and disadvantaged communities that do not have access to the privileges of living in a developed country; and learn how we can live in harmony with our motherland; and respect our traditions. Finally, we could reflect on our rituals such as the purpose of working in academia and how research can contribute to solve societal issues; the meaning of money, possessions and ego that we cannot take with us when we leave our bodies and re-join our motherland. There are many things that I need to improve as a human being and we can improve as society. The journey continues and I am looking forward to getting to know this new society that we are becoming, as some people say that we will not be the same after Covid-19 pandemic.

APPENDIX 4.1: Minera Paron – Easement agreement 2000

CONTRATO PRIVADO DE OTORGAMIENTO DE DERECHO DE SUPERFICIE, CONSTITUCION DE SERVIDUMBRE Y AUTORIZACION PARA USO MINERO

Conste por el presente documento, el CONTRATO PRIVADO DE OTORGAMIENTO DE DERECHO DE SUPERFICIE, CONSTITUCION DE SERVIDUMBRE Y AUTORIZACION PARA USO MINERO, que celebran de una parte la Comunidad Campesina "TRES DE OCTUBRE" . ZANJA- Inscrita en el Registro de Personas Jurídicas de Huaraz, Ficha N° 5894, representado debidamente por el Presidente de la Directiva Comunal, don Victoriano Caro Chinchay, con DNI Nro. 32038754, Vicepresidente, Domingo Germán López Cueva, con DNI Nro. 32038059, secretario, don Andrés Avelino Castillo Robles, con DNI N° 31656449; tesorero don Amador Leonardo Julca Espinoza, con DNI N° 32038627, y como fiscal don Pablo Delfin Mejía Giraldo, con DNI N° 32038065, como vocales don Hugo Abel Norabuena Romero, con DNI Nro.32045608, Pedro Máximo Cantu Díaz, con DNI Nro. 320 38875, don Prudencio Luis Silvestre Chinchay, con DNI Nro. 32038418; todos con domicilio en el sector Cochapampa, de la Comunidad Campesina "Tres de Octubre" – Zanja, Distrito de Yúngar, Provincia de Carhuaz; y de otra parte la EMPRESA MINERA PARON S.A.C.; con Registro Único de Contribuyente N° 20331781313, inscrita en el Libro de Sociedades Contractuales del Registro de Personas Naturales y Jurídicas del Registro Público de Minería de Lima, Ficha N° 19207; debidamente representado por el Señor FELIX ESPINOZA NAJERA , con DNI N°10818953; Poder inscrito en la SUNARP – LIMA Partida Nro. 11473688, en representación de su Gerente General, Sr. Mauro Rigoberto Espinoza Aguayo, domiciliado para efectos del presente contrato en el Barrio La FLORIDA S/N. (Comunidad Campesina de Shumay), Distrito de Marcara y Provincia de Carhuaz, Departamento de Ancash; bajo los término y cláusulas siguientes

PRIMERO.- Que, la Comunidad Campesina "Tres de Octubre" – Zanja, del Distrito de Yúngar, Provincia de Carhuaz – Ancash, otorga a la EMPRESA MINERA PARON SAC. el OTORGAMIENTO DE DERECHO DE SUPERFICIE, CONSTITUCION DE SERVIDUMBRE Y AUTORIZACION PARA USO MINERO, de propiedad de la Comunidad Campesina; la misma que está ubicado en el paraje de JONCU, en las quebradas de YURAC YACU Y QUIMAN TULLPA, para continuar con la exploración, desarrollo preparación y explotación de la actividad minera de acuerdo a la Ley General de Minería.

SEGUNDO.- Que, el plazo del presente contrato, regirá a partir del 15 de abril del 2013 hasta el 31 de diciembre del 2014; contados a partir del 15 de abril del 2013; debiendo la Empresa, iniciar sus actividades dentro de dicho período; pudiendo ser renovado el contrato, bajo las mismas condiciones señalados, bastando para ello que la empresa curse una carta simple con una debida anticipación en el domicilio de la Institución.

TERCERO.- Que, la compensación económica acordada por ambas partes, es la suma de S/. 7,000.00 (SIETE MIL NUEVOS SOLES) en forma mensual; para lo cual la Comunidad le girará el recibo de pago correspondiente; siendo la segunda semana del siguiente mes.

NOTIFICADA EN LA NOTARIA

CUARTO.- Que, el presente contrato se celebra a mérito del Acta de Reunión de la Asamblea General Extraordinaria, de fecha 19 de abril del 2013, que corre a fojas 48 49, 50, 51 y 52 del Libro de Actas de la Asamblea General, aperturada ante el Juez de Paz del Centro Poblado de Santa Rosa, Distrito de Yúngar – Carhuaz, de fecha 05 de febrero del 2011.

QUINTO.- Asimismo, La Empresa se compromete a contratar los servicios de mano de obra no calificada, a los miembros socios de la Comunidad Campesina, pagando un jornal diario de S/ 40.00 Nuevos Soles, con su respectivo alimentación que comprende, desayuno, almuerzo y cena; y su respectivo hospedaje en el campamento; movilidad e implemento de trabajo. También la Empresa, se compromete a pagar de manera puntual la mano de obra a la segunda semana del siguiente mes, con su respectivo recibo de honorarios profesionales u otro documento que acredite; refiriendo que el comunero mayor de edad que no pudiera realizar actividad minera podrá enviar a un reemplazante. Asimismo facilitar los primeros auxilios con una buena implementación de botiquín minero; y otros de la misma naturaleza que se definirá al momento de celebrar el contrato mediante escritura pública.

SEXTO.- Que, en caso de existir casos fortuitos ajenos a la voluntad de la empresa minera decidiendo dejar sin efecto el presente contrato, este cursara carta de manera oportuna a la institución comunal para conocimiento y evitar controversia innecesarias.

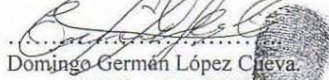
En señal de conformidad, firman ambas partes en el Distrito de Huaraz – Ancash a los 25 días del mes de abril del 2013

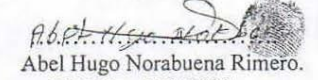

Victoriano Caro Chinchay
DNI N° 32038754


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Pedro Máximo Cantú Días
DNI Nro. 32038875


Prudente Luis Silvestre Chinchay.
DNI Nro. 32038418


ALIX ESPINOZA NAJERA
DNI N° 10818953

NO REDACTADA EN LA NOTARIA

CERTIFICACION

APPENDIX 4.2: Minera Santa Luisa – Framework Agreement 2007

CONVENIO MARCO DE RELACION INSTITUCIONAL SUSCRITO ENTRE LA COMPAÑIA MINERA SANTA LUISA S.A., LA MUNICIPALIDAD DISTRITAL DE HUALLANCA

CA

Conste por el presente Convenio de Marco de Relación Institucional que celebran de una parte la **COMPAÑIA MINERA SANTA LUISA S.A.**, en adelante "**LA EMPRESA**", con RUC N° 20100120314, inscrita a fojas 275 del tomo 7 del Registro Público de Minería y a fojas 75 del Tomo 237 del Registro de Sociedades Mercantiles, con domicilio legal en Av. República de Panamá N° 3531, Piso 15, San Isidro, Lima, debidamente representada por el Ingeniero Minoru Machida, identificado con Carnet de Extranjería N° 000375953, cuyos poderes corren inscritos en el Asiento C00012 de la Partida Electrónica N° 06004131 del Registro Público de Minería, y el Ing. Serafín Valer Gonzales, con D.N.I. 10318239, en calidad de Gerente de Relaciones Comunitaria; y de la otra parte la **MUNICIPALIDAD DISTRITAL DE HUALLANCA**, en adelante **LA MUNICIPALIDAD**, con RUC N° 20222304921, debidamente representada por el Alcalde Ingeniero Teofilo Marcos Cervantes, identificado con DNI N° 04009872, con domicilio legal en el Jr. Arequipa s/n, Plaza de Armas, distrito de Huallanca, de la provincia de Bolognesi en la región Ancash; con intervención del Ministerio de Energía y Minas, en adelante **MEM** en su calidad de facilitador de la Mesa de Diálogo, el mismo que se encuentra debidamente representado por el Dr. José Luis Carvajal Briceño, Director General de Gestión Social, y el Dr. Humberto Alva Alva; y la **ASOCIACION CIVIL "FRENTE CIVICO DE DEFENSA Y DESARROLLO DE HUALLANCA"**, debidamente inscrita en los Registros Públicos de Huaraz, con partida No. 11002031 en adelante **EI FRENTE**, debidamente representado por su Presidente, el señor Zoilo Morales Primo, identificado con DNI N° 22702042, con domicilio legal en el Jr. Dos de Mayo N° 108, distrito de Huallanca, provincia de Bolognesi, departamento de Ancash, y con la representación de la relación adjunta.

MINISTERIO DE ENERGIA DE MINAS, Oficina General de Gestión Social. A quien en adelante se le denominara **MEM**, en su calidad de facilitador de la Mesa de Diálogo el mismo que se encuentra debidamente representado por el Asesor Dr. Humberto Alva Alva.

El presente convenio se celebra de acuerdo a las siguientes estipulaciones:

CLÁUSULA PRIMERA: LAS PARTES

- 1.1 Compañía Minera Santa Luisa S.A., en adelante **LA EMPRESA**, opera las Unidad Minera Huanzalá, ubicada en el distrito de Huallanca, Provincia de Bolognesi, región Ancash.
- 1.2 La Municipalidad Distrital de Huallanca, en adelante **LA MUNICIPALIDAD**, en un órgano del Gobierno Local, con personería jurídica y de derecho público y cuenta con plena capacidad para el cumplimiento de sus funciones amparado en la normatividad jurídica vigente.

- 1.3 La Asociación Civil, denominada "**EL FRENTE**" constituida al amparo de la Constitución Política del Perú, Código Civil, y normatividad de la materia, con objetivos y fines para defender los derechos de la población del Distrito de Huallanca.

Cabe indicar que participan en el presente Convenio Marco **LA EMPRESA, LA MUNICIPALIDAD y EL FRENTE** quienes apoyan y reconocen los esfuerzos de las partes para el mantenimiento de una convivencia armónica entre la población de Huallanca y la Empresa.

CLÁUSULA SEGUNDA: FINALIDAD

El presente convenio tiene como principal objetivo lograr y mantener la convivencia pacífica y armónica entre **LA EMPRESA** y la población urbana y rural del Distrito de Huallanca, y permitir el desarrollo óptimo de las actividades mineras de **LA EMPRESA**.

LA EMPRESA, por el presente convenio se compromete a apoyar a **LA MUNICIPALIDAD** y a la población urbana y rural para el desarrollo económico sostenible del distrito de Huallanca. El Plan de Desarrollo de Huallanca se encuentra plasmado en el "Marco de Desarrollo Sostenible e Integral en el Tiempo" (Programa de los Siete Ejes Temáticos de Desarrollo), en adelante **EL PROGRAMA**, y que ha sido materia de dialogo entre las partes, con el propósito esencial de mejorar la calidad de vida de sus miembros. **EL PROGRAMA** formará parte del presente convenio.

LA MUNICIPALIDAD, **EL FRENTE** y **LA EMPRESA** se comprometen a fomentar y mantener un clima de respeto, tranquilidad y paz social entre ellas.

CLAUSULA TERCERA: APORTE PARA PROYECTOS SOCIALES

Para el año 2007, **LA EMPRESA** en virtud del Decreto Supremo N° 071-2006-EM, que aprueba el aporte económico voluntario, extraordinario y temporal, será destinado para financiar los proyectos sociales correspondientes al denominado "Programa Minero de Solidaridad con el Pueblo". Anexo 02.

Para el año 2007, **LA EMPRESA** en virtud del Decreto Supremo N° 042-2003-EM, sobre responsabilidad social, se compromete a ejecutar y desarrollar proyectos sostenible en beneficio de los pobladores del Distrito de Huallanca por la suma de S/. 1'300,000 (UN MILLÓN TRESCIENTOS MIL NUEVOS SOLES).

El aporte de **LA EMPRESA** se hará en especies conforme a los presupuestos y valorizaciones de las actividades de cada proyecto.

LA EMPRESA realizará las obras sociales o actividades de acuerdo a un cronograma específico de ejecución y recepción de las mismas, que deberá ser establecidos por las partes.

El presupuesto, la valorización y el cronograma de ejecución y recepción de obras serán aprobados por las partes con dos meses antes del inicio de cada periodo anual.

Los proyectos a los cuales contribuirá LA EMPRESA son los que contiene EL PROGRAMA.

CLAUSULA CUARTA: METAS

4.1 La ejecución de los proyectos de desarrollo de EL PROGRAMA, es de responsabilidad de LA MUNICIPALIDAD y su ejecución se iniciará durante el presente año con respecto a la suscripción del presente Convenio Marco.

El aporte de LA EMPRESA será complementado por LA MUNICIPALIDAD con aportes en efectivo o en especies, o fondos públicos, privados de otras fuentes. Los recursos que destine LA EMPRESA en los proyectos de EL PROGRAMA no constituye recurso público y su manejo no esta sujeto a normas de derecho público.

4.2 LA MUNICIPALIDAD, en el segundo semestre del año 2007, elaborará el "PLAN DE DESARROLLO MUNICIPAL CONCERTADO DEL DISTRITO DE HUALLANCA", de carácter estratégico, teniendo en cuenta los planes anteriores y EL PROGRAMA.

CLAUSULA QUINTA: PRESUPUESTO

Las partes toman conocimiento que EL PROGRAMA tendrá como presupuesto base al expediente técnico correspondiente a cada uno de ellos según el Anexo No. 01 que se adjunta en el presente Convenio Marco.

El aporte que solo otorgará LA EMPRESA, consiste en la ejecución de las actividades y obras establecidas según el Anexo No. 02 que se adjunta en el presente Convenio Marco, cuyo presupuesto, valorización y cronograma de ejecución aprobado por las partes con antelación conforme se indica en la cláusula tercera.

CLAUSULA SEXTA: OBLIGACIONES DE LAS PARTES

Las partes acuerdan que para concretizar y ejecutar lo estipulado en la Cláusula Tercera se deberán realizar de acuerdo al D.S. 042-2003-EM y el D.S.071-2006-EM, los actos siguientes:

1. LA EMPRESA por Responsabilidad Social, mantendrá vigente el Convenio Marco, hasta la finalización de las operaciones mineras.
2. Conformar, dentro de los 7 días hábiles siguientes a la suscripción del presente Convenio Marco, una Comisión Técnica de Coordinación, establecido en la Cláusula Quinta del formato del Convenio aprobado en el D.S. 071-2006-EM, la cual velará por la priorización, seguimiento y control de los diversos proyectos socio-económicos del presente Convenio Marco.

3. La Comisión Técnica de Coordinación se reunirá la primera quincena de Diciembre del presente año y siguientes, durante la vigencia del Convenio, a fin de hacer una evaluación de los avances realizados en la ejecución de los proyectos.
4. De ser necesario se presentarán proyectos adicionales o complementarios ante instituciones privadas, nacionales e internacionales, a fin de obtener el financiamiento para su realización. De igual modo se podrán presentar proyectos en los que se requiera complementar el aporte de **LA EMPRESA** con recursos adicionales de otras fuentes, públicas o privadas.
5. Asimismo, la Comisión Técnica de Coordinación buscará el apoyo económico de las instituciones del Estado, a fin de consolidar los proyectos socio- económicos de **EL PROGRAMA**.
6. **LA MUNICIPALIDAD** podrá proponer proyectos para los siguientes períodos anuales, de **EL PROGRAMA** y que podrán ser cofinanciados por las partes que suscriben el presente Convenio Marco, con los fondos del Programa Minero de Solidaridad con el Pueblo (Decreto Supremo 071-2006-EM, Decreto Supremo 042-2003-EM) aportes del Canon Minero , Regalía Minera y Derecho de Vigencia , en favor del distrito de Huallanca.
7. Los montos de aportes que en obras otorgue **LA EMPRESA** se destinarán a la ejecución de los proyectos contemplados en **EL PROGRAMA**.
8. **LA MUNICIPALIDAD** es responsable de promover el desarrollo económico urbano y rural, y la prestación de los servicios públicos que le competen funcionalmente, en armonía con las políticas y planes nacionales y regionales de desarrollo, de conformidad con la Ley Orgánica de Municipalidades.
9. En el desarrollo de la ejecución de los fondos del D.S. 071-2006-EM, para los programas de nutrición en el campo, se considerará como promotores a los jóvenes de manera preferente de la ciudad de Huallanca, mediante un Programa de Formación de Promotores.
10. **LA MUNICIPALIDAD** concertará con el sector privado la orientación de la inversión pública necesaria para la promoción de la inversión privada de conformidad con la Ley de Promoción de la Inversión Descentralizada.
11. **LA MUNICIPALIDAD** es responsable de promover el desarrollo empresarial de las áreas urbanas y rurales, de conformidad con la Ley Orgánica de Municipalidades.

Del mismo modo, **LA MUNICIPALIDAD**, **EL FRENTE** y **LA EMPRESA** se comprometen a mantener una relación institucional de mutuo respeto a fin de mantener un ambiente propicio para el trabajo en conjunto, y que permita el desarrollo sostenible del Distrito de Huallanca.

LA EMPRESA deja constancia de las obras desde el inicio de sus actividades de explotación hasta la fecha, en favor del Distrito de Huallanca en el Anexo 03.

CLAUSULA SEPTIMA: TRABAJO

LA EMPRESA se compromete a dar oportunidad preferente a los pobladores del Distrito de Huallanca, en la capacitación y contratación de trabajadores en las distintas modalidades, la misma que se realizará conforme a los requerimientos que sean necesarios para la plaza a contratar. Para tal efecto, LA MUNICIPALIDAD y EL FRENTE deberán de promover servicios de intermediación laboral.

CLAUSULA OCTAVA: EMPRESA

LA EMPRESA de acuerdo a sus posibilidades y necesidades, dará prioridad de trabajo, para los empresarios del Distrito de Huallanca, tanto en el rubro de obras, comercialización y otros de conformidad al D.S. N° 042-2003-EM, siempre y cuando cumplan con las normas correspondientes.

CLAUSULA NOVENA: GESTION AMBIENTAL

LA EMPRESA deja constancia que ha realizado todos los esfuerzos en el cuidado del medio ambiente mediante la ejecución del Programa de Adecuación y Manejo Ambiental (PAMA) cuyo cumplimiento ha sido fiscalizado y aprobado por el MEM. El control y fiscalización ambiental es una tarea que corresponde a OSINERGMIN, entidad que junto con el MEM constituyen la autoridad competente en materia ambiental en las actividades minero metalúrgicas. En este sentido con relación a cualquier aspecto ambiental vinculado a la actividad minera se respetará la autoridad y las funciones que la legislación confiere a estas entidades públicas.

LA EMPRESA, MUNICIPALIDAD y EL FRENTE, se comprometen por velar el cuidado del medio ambiente.

LA MUNICIPALIDAD y EL FRENTE vigilarán la labor de los organismos del Estado y responsables del seguimiento del medio ambiente.

LA MUNICIPALIDAD y EL FRENTE se reservan su derecho de contar con evaluaciones de entidades de carácter independiente.

CLAUSULA DECIMA: LEY ENTRE LAS PARTES

El presente Convenio Marco constituye ley entre las partes, interpretándose y ejecutándose conforme a la buena fe y común intención de las mismas. En caso de surgir alguna controversia con motivo de la ejecución o interpretación,

del presente convenio será solucionado por las partes de manera pacífica en un marco de tolerancia.

CLAUSULA DECIMA PRIMERA: APROBACION Y VIGENCIA

El presente convenio marco se celebra de conformidad con el artículo 9º, inciso 26 de la Ley Orgánica de Municipalidades (Ley N° 27792), es aprobado por el Consejo Municipal el mismo que formará parte del presente Convenio.

El presente Convenio Marco es de plazo indefinido y se mantendrá vigente hasta la finalización de las operaciones mineras de LA EMPRESA en la unidad minera de Huanzalá.

El presente Convenio Marco entrará en vigencia dentro de los cinco días útiles siguientes a la fecha de su ratificación por el Concejo Municipal del Distrito de Huallanca y el Directorio de la Compañía Minera Santa Luisa S.A..

CLAUSULA DECIMA SEGUNDA: DE LA RESOLUCIÓN DEL CONVENIO

Ambas partes establecen como causales de Resolución del presente Convenio Marco las siguientes:

1. Hechos de hostilidad y violencia, que afecten a las partes, con relación a las personas, bienes, propiedad e inversiones.
2. Incumplimiento injustificado y reiterado de los compromisos asumidos.
3. Reiterada inconducta institucional u organizacional que impida el normal desarrollo de los vínculos de cooperación que hagan insostenible el desarrollo e inejecutables las obligaciones establecidas en el Convenio Marco.

En el supuesto que el presente Convenio Marco sea resuelto por cualquiera de las causales establecidas en el presente documento, todas las obligaciones derivadas del mismo quedarán automáticamente extinguidas de pleno derecho.

Ante el incumplimiento del presente convenio marco, cualquiera de las partes que se encuentren afectadas podrá recurrir ante la Oficina General de Gestión Social del Ministerio de Energía y Minas a fin de resolver en vías de conciliación los incumplimientos ocurridos.

CLAUSULA DECIMA TERCERA: SOLUCIÓN DE CONTROVERSIAS

Cualquier litigio, controversia, disputa, diferencia o reclamo proveniente de o que surgiera con relación a la interpretación y/o ejecución de este Convenio Marco, así como cualquier incumplimiento, término o invalidez del mismo y que no pueda ser resuelto ante el Ministerio de Energía y Minas, y dentro de un marco de actuación de buena fe y esfuerzo de amigable composición, será

resuelto por un Tribunal Arbitral, de acuerdo a las normas establecidas en la Ley 26752, Ley General de Arbitraje.

CLÁUSULA DÉCIMA CUARTA DISPOSICIONES

Las partes convienen que los aspectos no contemplados en el presente convenio marco podrán ser resueltos mediante addendas que estimen convenientes para el cumplimiento del objetivo trazado y mantener una buena relación institucional. Las addendas serán aprobadas por ambas partes, y se realizarán siempre y cuando existan circunstancias justificatorias.

CLAUSULA DÉCIMA QUINTA DOMICILIO

Los domicilios de las partes serán los que se indican en la introducción de este convenio marco, acordándose que éstos solo podrán variarse previa comunicación escrita con una anticipación de diez días útiles a la fecha de la variación efectiva, para que surtan efectos entre las partes.

CLAUSULA DÉCIMA SEXTA ETICA EN LA RELACION
INSTITUCIONAL

Las partes reconocen que una de las formas de contribuir recíprocamente para el desarrollo sostenible de la población de Huallanca, debe ser con mutuo respeto al amparo de la normativa jurídica que tiene la República del Perú, y en especial la institución Municipal, Empresarial y Frente Cívico. Por el presente Convenio Marco, las partes declaran garantizar la seguridad jurídica y el estado democrático de derecho que conlleve al respeto de las partes.

Asimismo, las partes se comprometen a garantizar la seguridad y el orden en la zona, desincentivando la realización de actos de hostilización, contra cualquiera de ellas.

El presente Convenio Marco, se suscribe en señal de conformidad en cuatro ejemplares de igual tenor para la **EMPRESA, MUNICIPALIDAD, FRENTE** y el **MEM**, a los diez (10) días del mes de Julio del año dos mil siete.

COMPANIA MINERA SANTA
LUISA S.A

MUNICIPALIDAD DISTRITAL DE
HUALLANCA

MINISTERIO DE ENERGÍA Y
MINAS

FRENTE CIVICO DE DEFENSA
y DESARROLLO

Anexo N° 2: Aporte Total de la Empresa a su Zona de Influencia Directa

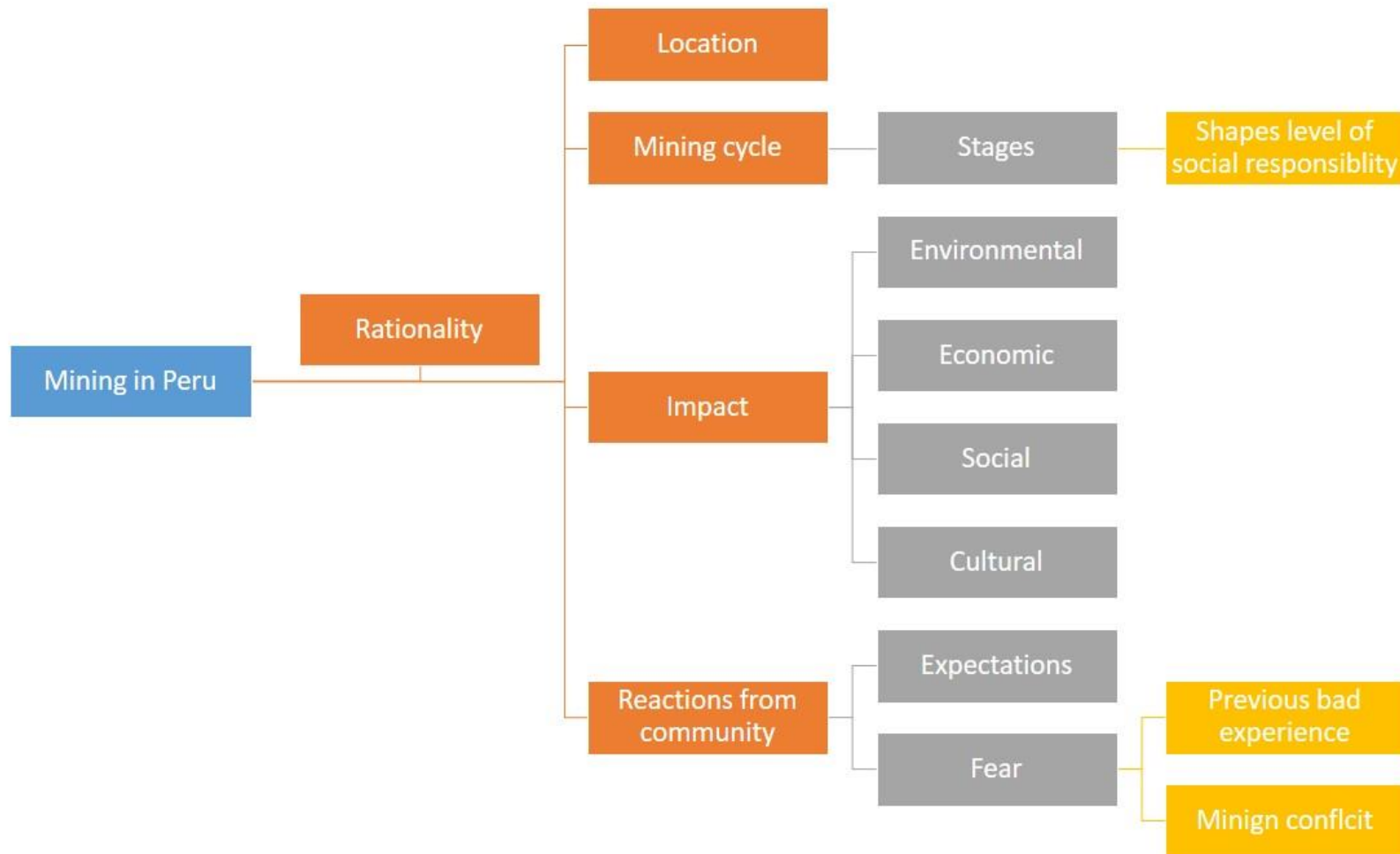
2,000,000	Total destinado a Huallanca
2,583,770	Fondo de aporte voluntario destinado a las comunidades del distrito de Huallanca
320,000	Cc. de Pocpa y Llámac
378,230	Restante Ppto. RRCC de SL, invertido en Huallanca
5,282,000	TOTAL destinado a la zona de influencia de CMSLSA

Anexo N° 2: Fondos Provenientes de Santa Luisa por Responsabilidad Social (D.S. 042-2003-EM y D.S. 071-2006-EM)

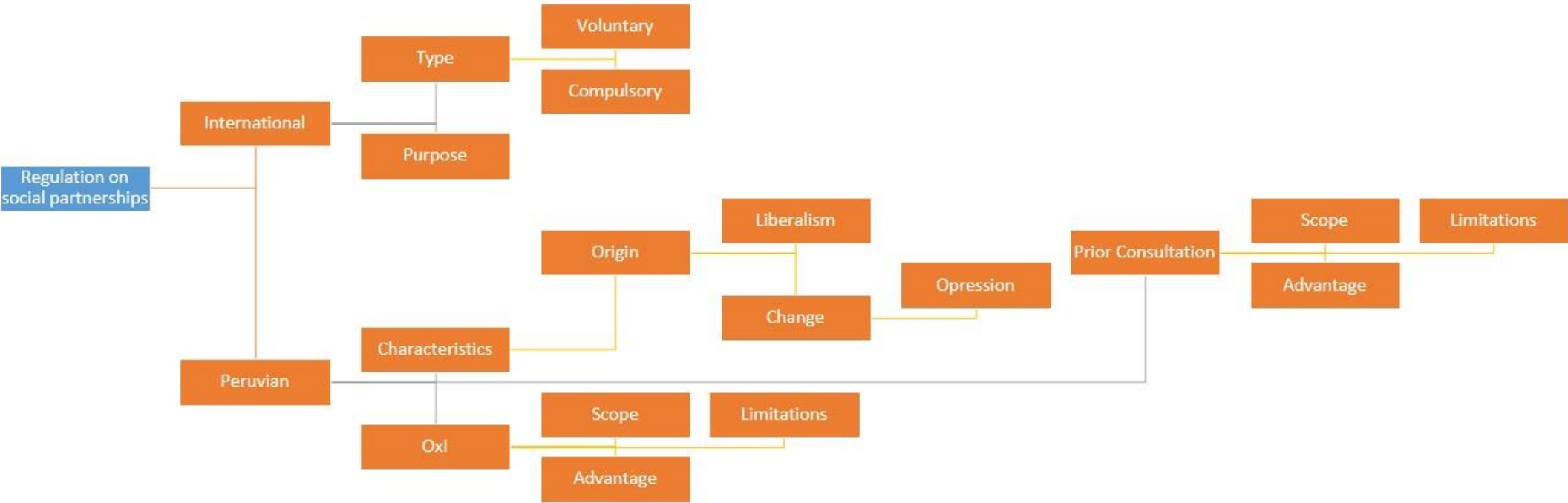
447,000	De los 947 mil (Ppto. SL RS) se pueden disponer de 447 mil.
335,000	Financiamiento del 50% del proyecto de construcción de una Planta de Tratamiento de Aguas Residuales (lo restante a cargo del Municipio)
1,096,230	Monto proveniente del aporte voluntario asignado a la zona urbana de Huallanca (13 abril 07)
121,770	Promoción de nutrición en área rural
2,000,000	Total destinado a Huallanca

APPENDIX 4.3: Template Analysis

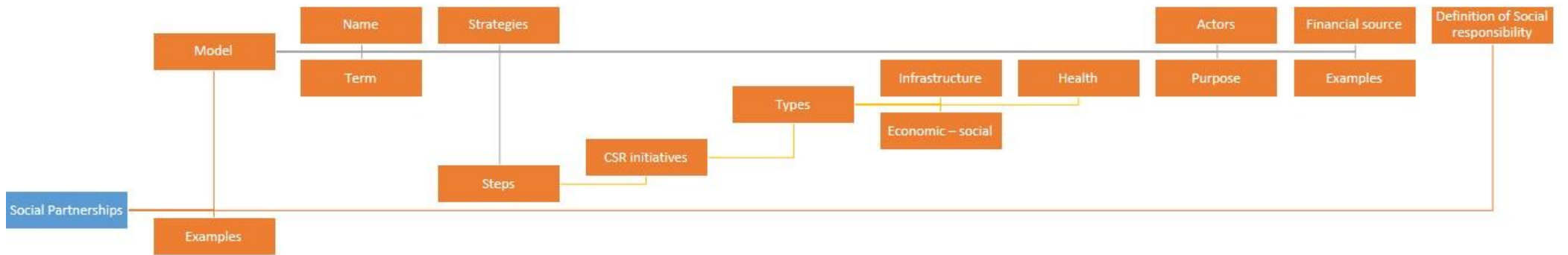
Themes related to Mining in Peru



Themes related to regulation on social partnerships



Themes related to social partnerships



APPENDIX 4.4: Participant Information sheet

Participant Information Sheet

Name of department:

- Law School – University of Westminster

Title of the study:

- The contribution of cross-sector partnerships for the development of Corporate Social Responsibility (CSR) initiatives in the Peruvian mining industry.

Introduction

The researcher's name is Gustavo Ronald Espinoza Ramos who is a third year PhD student at the University of Westminster – Law school (England) and his contact details can be found at the end of this document. The language used in this Participant Information Sheet and Consent Form is English.

Who can take part?

The stakeholder are representatives from mining companies (community relations), consultancies, peasant communities, non-governmental organisations (NGOs), and local and central government.

What is the purpose of this investigation?

The research objectives are:

- To identify and analyse the expectations and behaviour patterns accepted by the interviewees that determine the formation of partnerships among the stakeholders in the mining sector in Peru.
- To identify and evaluate the CSR initiatives implemented through the cross-sector partnerships in the mining sector in Peruvian Andes.
- To develop a best-fit cross-sector partnership model in the mining sector in the Peruvian Andes.

What does the study involve?

This is a research that involves 50 semi-structured interviews which means that the researchers will a guide with the topics to be covered but also some spontaneous questions will be asked to deepen some of the interviewees' opinions.

Participants need to complete audio recorded interviews that last between 45 up to 60 minutes, and on which the researcher can take notes. The participant may request a not recorded interview, although the researcher may take notes.

In this research there is not right or wrong answers as it is looking for the honest opinions from the respondents. This research will be carried out from 16th June until 30st August 2017.

Due to the research is carried out in a university in the United Kingdom, the thesis will be in English. However, the transcripts of the interviews will be in Spanish, then the findings will be translated into English.

What will you do in the project?

The respondents are required to provide their honest opinions about the formation of partnerships between the groups mentioned above and how the following aspects contributes or challenges its development: Peruvian regulation and international standards, cultural characteristics of the country and region, stages in the formation of partnerships, and characteristics of effective CSR initiatives developed by them.

There is no payment or reimbursement to the respondents' participation. The interviews will be held in a location where the participants feel comfortable and safe.

Do you have to take part?

The participation of the interviewees is voluntary and the respondents can refuse or withdraw its participation at any time of this process and will not affect any other aspects of the way a person is treated.

Why have you been invited to take part?

You have been invited to this research as you can provide very valuable opinion and expectations about the formation of partnerships with mining companies, peasant communities, NGOs and government. The idea is to listen to all the voices that can be affected during mining operations.

What are the potential risks to you in taking part?

The recorded interviews will be transcript into Spanish and the personal details of the interviewee or the organisations involved will not be disclosed to any of the other participants or external groups. Instead, this information will be coded; and will only be shared with the PhD supervisors. The interviewee may request a written or digital copy of the transcripts in the consent form. The interviewee may request the non-inclusion of the transcript of his interview. This will be the last opportunity for this application.

What happens to the information in the project?

The interviews will be audio recorded and the data and personal detail will not revealed to the other participants within the study or other external groups. The data will only be shared with the PhD supervisors. The data will be encrypted and stored in 3 different USB drives and in the university account storage (university drive).

All personal data on participants will be processed in accordance with the provisions of the Data Protection Act 1998 in the United Kingdom.

The transcripts, the recorded audio interviews and any other data will be retained intact for a minimum retention period of three years after publication. After this length of time the data is going to be deleted or destroyed.

What happens next?

The participant will sign a consent form to confirm his/her participation in the audio recorded interviews. In case the respondent does not want to continue with the interview, the researcher thanks his/her time for listening the instructions.

Thank you for reading this information – please ask any questions if you are unsure about what is written here.

Researcher contact details:

Gustavo Ronald ESPINOZA-RAMOS
Westminster Law School,
Universidad de Westminster,
4-12 Little Titchfield Street
London, WIW 7BY

Telephone: +44 (0)20 7911 5000

Email: w1531793@mv.westminster.ac.uk

Hoja de información para el participante

Nombre del departamento:

- Escuela de Derecho – Universidad de Westminster

Título del proyecto:

- La contribución de las alianzas público-privadas para el desarrollo de iniciativas de responsabilidad social corporativa (RSC) en la industria minera peruana.

Introducción

El nombre del investigador es Gustavo Ronald Espinoza Ramos, estudiante de tercer año de doctorado en la Facultad de Derecho de la Universidad de Westminster (Inglaterra) y sus datos de contacto se encuentran al final de este documento. El idioma utilizado en esta Hoja de Información para el Participante y el Formulario de Consentimiento es español.

¿Quién puede participar?

El grupo de interés lo forman representantes de empresas mineras (relaciones comunitarias), consultorías, comunidades campesinas, organizaciones no gubernamentales (ONG), y gobierno local y central.

¿Cuál es el propósito de esta investigación?

Los objetivos de investigación son:

- Identificar y analizar las expectativas y los patrones de comportamiento aceptados por parte de los entrevistados que determinan la formación de alianzas entre los grupos de interés en el sector minero en Perú.
- Identificar y evaluar las iniciativas de Responsabilidad Social Empresarial (RSE) implementadas a través de estas alianzas en el sector minero en los Andes peruanos.
- Desarrollar un modelo de alianza entre estos los grupos de interés que mejor se ajuste en el sector minero en los Andes peruanos

¿En qué consiste el estudio?

Esta es una investigación en la que se realizarán 50 entrevistas semi-estructuradas, es decir, el entrevistador llevará una guía con los temas a cubrir y asimismo se harán preguntas espontáneas para profundizar algunas opiniones de los entrevistados.

Los participantes deberán completar una entrevista de 45 a 60 minutos, la cual será grabada en audio y en la que el investigador puede tomar notas escritas. El participante podrá solicitar una entrevista no grabada, aunque el investigador podrá tomar notas.

En esta investigación no hay respuestas correctas o incorrectas, ya que se está buscando las opiniones honestas de los participantes. Esta investigación se realizará del 16 de Junio al 30 de Agosto de 2017.

Debido a que los estudios de doctorado se realizan en una universidad del Reino Unido, la tesis será en inglés. Sin embargo, las transcripciones de las entrevistas serán en español, y posteriormente los resultados serán traducidos al inglés.

¿Qué vas a hacer en el proyecto?

Los encuestados deberán brindar sus opiniones sobre la formación de alianzas entre los grupos mencionados anteriormente y cómo los siguientes aspectos contribuyen o desafían su desarrollo: Regulación peruana y normas internacionales, características culturales de la región y del país, etapas en la formación de alianzas, y las características de iniciativas efectivas de RSE desarrolladas por las alianzas.

No se brindará un pago o reembolso por la participación de los encuestados debido a la limitación de fondos. Las entrevistas se llevarán a cabo en un lugar donde los participantes se sientan cómodos y seguros.

¿Tienes que participar?

La participación de los entrevistados es voluntaria y los encuestados pueden negarse a participar o retirarse de las entrevistas en cualquier momento y no tendrá un efecto en el trato cordial entre las partes.

¿Por qué ha sido invitado a participar?

Usted ha sido invitado a esta investigación ya que pueden brindar opiniones y expectativas muy valiosas sobre la formación de alianzas multi-actor entre empresas mineras, comunidades campesinas, ONGs y el gobierno. La idea es escuchar todas las voces que pueden verse afectadas durante las operaciones mineras.

¿Cuáles son los riesgos potenciales en su participación?

Las entrevistas grabadas serán transcritas al español, y los detalles personales del entrevistado o las organizaciones involucradas no serán revelados a ninguno de los otros participantes u organismos. En su lugar, esta información será codificada; y sólo se compartirá con los supervisores universitarios del doctorado. El entrevistado puede solicitar una copia escrita o digital de las transcripciones en el formato de consentimiento. El entrevistado puede solicitar la no inclusión de la transcripción de su entrevista. Esta será la última oportunidad para esta solicitud.

¿Qué pasa con la información del proyecto?

Las entrevistas serán grabadas en audio y los datos no serán revelados a los otros entrevistados dentro del estudio. Los datos serán cifrados y almacenados en 3 unidades USB diferentes y en la cuenta de almacenamiento universitaria.

La administración de los datos personales de los participantes seguirá los lineamientos en conformidad con las disposiciones de la Ley de Protección de Datos de 1998 del Reino Unido. Las transcripciones, las entrevistas grabadas y cualquier otro dato se mantendrán intactos durante un período mínimo de retención de tres años después de la publicación de la tesis. Después de este período de tiempo los datos se van a eliminar o destruir.

¿Qué pasará después?

El participante firmará un formulario de consentimiento para confirmar su participación en las entrevistas grabadas. En caso de que el entrevistado no quiera continuar con la entrevista, el investigador agradecerá su tiempo por escuchar las instrucciones.

Gracias por leer esta información - por favor haga cualquier pregunta si no está seguro acerca de lo que está escrito aquí.

Datos de contacto del investigador:

Gustavo Ronald ESPINOZA-RAMOS
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4-12 Little Titchfield Street
London, W1W 7BY

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UoW: <https://www.westminster.ac.uk/research/graduate-school/current-students/doctoral-researchers/espinoza-ramos-gustavo>

FORMULARIO DE CONSENTIMIENTO

Departamento: Law School

Título del proyecto: La contribución de las alianzas público-privadas para el desarrollo de iniciativas de responsabilidad social corporativa (RSC) en la industria minera peruana.

1. Me han informado sobre lo que implica este estudio y estoy de acuerdo con el uso de los resultados como se describió en la hoja de información para el participante.
2. Confirmando que he leído y entiendo la hoja de información del estudio; y el investigador ha contestado satisfactoriamente mis preguntas.
3. Entiendo que mi participación es voluntaria y que soy libre de retirarme de ella en cualquier momento, sin dar razones, y no habrá ninguna consecuencia desfavorable para mí. Si ejerzo mi derecho a retirarme, no quiero que mis datos personales sean utilizados, y serán destruidos.
4. Entiendo que cualquier información registrada en la investigación permanecerá confidencial y ninguna información que me identifique será puesta a disposición del público.
5. Estoy de acuerdo en participar en el presente estudio.
6. Estoy de acuerdo que la entrevista / consulta sea grabada en audio.
7. Si deseo recibir una copia de la transcripción, necesito marcar la casilla siguiente

Nombre del participante

Fecha

Firma

Nombre del investigador

Fecha

Firma

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