Ongoing Corporate Social Responsibility –CSR- Through Dialogue with Stakeholders: A Study Case

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Abstract

During the last 15 years, due to several social conflicts generated by mining operations in Peru, mining has reshaped its performance from a questionable activity to an accountable one. Corporate Social Responsibility (hereafter CSR) has represented the approach to do this reshaping. In that sense, idea of mining CSR represents how corporations *ought to interact* responsibly with society. Then, society expects that mining corporations *ought to act* correctly, guided by the CSR frame that represents the assumption of the correct way to behave. However, mining CSR framework must be accepted for the corporation as well as for society, which might be affected by the corporate actions guided by the framework, mainly the local community. The way mining CSR will be accepted is through dialogue between corporations and stakeholders. Thereby, CSR would imply that corporations should consider what society expects as a responsible performance to be part of the way they *ought to act* through dialogue and mutual understanding.
**Table of Acronyms**

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<tr>
<td>Broken Hill Proprietary – Billiton</td>
<td>BHPB</td>
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<td>Corporate Social Responsibility</td>
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<td>Foreign Direct Investment</td>
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<td>Gross Domestic Product</td>
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<td>Ministry of Energy and Mining of Peru</td>
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<td>Mining Multinational Corporations</td>
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Chapter 1 Introduction

1.1. Aim

The aim of this thesis is to examine how mining companies can improve CSR norms and policies through dialogue with their host local communities. In this particular case the study will focus on the relationship between CSR and the Peruvian mining industry using the Tintaya case as an example (See section 1.2: Background)

1.2 Background

Mining has had an important position in the history of Peru. For years, mineral exploitation has represented the way Peruvian wealth has been maintained. In the 20th Century –mainly in the last 15 years - the Peruvian state began to consider mining as significant for the economy’s strengthening and for the access of Peru into the global economy. This consideration occurred due to Peruvian economy -based mostly on the exploitation and export of raw materials- which underwent a development based fundamentally on mining investment and production. However, mining has generated several negative social impacts as well. It has implied a lack of sources of work in rural areas –where mining operations are located- and harmful impacts in rural communities’ livelihood. The way mining has been carried out in Peru has been the cause of these negative impacts. And as a consequence of that, several social conflicts and a climate of mistrust against mining have been generated.

During the last 15 years, due to several social conflicts generated by mining operations in Peru, mining has reshaped its performance from a questionable activity to an accountable one. CSR has represented the approach to do this reshape. In that sense, mining companies have improved their interaction with society –mainly local communities- guided by CSR norms and policies. To do that, dialogue and mutual understanding are considered the forms to achieve better relationships. However, it is necessary that mining companies continue improving ways of interacting and of engaging stakeholders.

The case of Tintaya’s Dialogue Table is a paradigmatic example in which the disposition to dialogue improved stakeholders’ relationship and CSR framework in mining in Peru. This case represents the
way how a mining company –BHP Billiton Tintaya- and the local host communities that live in the surrounding area of its operations improved their relationship through dialogue. In fact, policies and norms of corporate social responsibility were discussed and were agreed by the company and the rural communities to guide their social interaction. Put in other words, CSR was considered to guide this particular interaction because all possible affected by it –mainly the mining company and the rural communities- participated in the discussion of its elaboration. Then, to continue improving mining stakeholders´ relationships and mining CSR in Peru, it is convenient to understand the role of dialogue in Tintaya´s case.

It is necessary to point out my participation in Tintaya’s dialogue table. I worked in the NGO Cooperaccion that supported the participation of the rural communities in the dialogue process between 2001 and 2004. In that sense, my experience and background are part of the elaboration of the thesis. The information that supports the research and its analysis are considered from my background as well. However, as a matter of fact, I have assumed an objective position in the assessment of the process to achieve the aim of the thesis.

1.3. Problem

Corporate social responsibility frames represent the ethical-normative framework that develops corporate interaction with stakeholders. Dialogue is the most important tool to improve this interaction. However, it involves not only giving information, but requires that CSR should be the result of mutual engagement and participation of stakeholders in its elaboration. In that sense, dialogue is a conduct that strengthens the relationships between corporations and stakeholders. As a result of this disposition to dialogue, CSR should be accepted as significant to guide the interaction between corporations and stakeholders.

The following questions will serve as instruments for exploring the ethical objective of the purpose of this thesis: Why ought all possible affected by CSR to participate in its elaboration, mainly local communities? How can all possible affected by CSR participate in their elaboration? Is dialogue the way how local communities and mining corporations can improve their relationship? How can dialogue
improve the relationship between corporations and local communities? How can dialogue with local communities improve corporate interaction with society?

**Outlook**

The relationship between corporations and its stakeholders –principally the local community- is discussed from the ideas presented in Habermas' Discourse Ethics Theory, using mainly the Principle of Discourse Ethics (D). “Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourse.” This principle is applied to the concepts of CSR and stakeholders’ relationship to improve their understanding and practice.

Starting arguments:

- CSR guides the interaction between mining corporations and local communities.
- The elaboration of mining CSR, based on dialogue with host local communities, should imply that their social expectations confirm the framework as significant for the relationship between them.
- Mining CSR represents that all possibly affected by it –i.e. stakeholders, mainly host local communities- may be part of its elaboration.

**1.5 Structure**

The thesis is composed of three related chapters.

Chapter 2 is an overview of the mining context in Peru during the last 15 years in which Tintaya’s case occurred. The main objective of this chapter is to identify what happened between BHPB Tintaya and the host local communities, and why it happened.

In the first section of the chapter, I present the social, legal and economic context in which mining has been operating during the last 15 years in Peru. This particular context is the frame in which BHPB
Tintaya was operating the Tintaya mine. In the second section, I present the features of Tintaya’s dialogue process and how these were set up, as well as the role that dialogue had in the process.

Chapter 3 begins with the analysis from the following points of departure: Mining corporations ought to interact adequately with different stakeholders with whom they are related; and, they ought to identify different interests and social expectations of all who are possibly affected by their operations. With regard to these assertions, the chapter focuses mainly on the foundations of CSR regarding how corporations ought to relate with society. To do this, I present the idea of CSR by Edward Freeman’s Stakeholders Theory of why corporations have responsibilities and how corporations ought to engage with society. This aim will allow me to further understand the interaction and communication between mining corporations and local communities based on Habermas´ Discourse Ethics Theory.

Finally, I return to Tintaya’s case in Chapter 4 to discuss how the previous analysis can facilitate us to understand the success of the dialogue process.
Chapter 2 Tintaya’ Dialogue Table as the Result of a Particular Way to Do Mining in Peru

Before beginning the analysis of Tintaya’s case, the objective of this chapter is to identify what happened between BHBP Tintaya and the host local communities and why it happened. In section 2.1 I present an overview of the Peruvian context in which Tintaya’s case occurred, followed by the description of the features of Tintaya’s Dialogue Table in section 2.2. The chapter shall be limited to display what happened and why it happened. In addition, this chapter deals only with aspects closely related to the dialogue process itself. After reading this chapter, the reader will have an overall view of what happened between BHPB Tintaya and the local communities, and the purpose of the dialogue in the process.

2.1. Broad Overview of the Mining Context in Peru in which Tintaya’s Dialogue Table Occurred

In this section, I present the social, economic and legal features of the last 15 years in Peru. This context belongs to a period of change where a questioned old way to do mining was turning into a new way to do mining. The current section focuses on presenting the features of the old way to do mining, as well as the changes towards new conditions that characterized a new way to do mining. The intention is to identify the features in the way mining activity was done, as well as the way mining corporations related with host local communities in Peru in the last 15 years. That allows me to further understand how BHPB Tintaya was operating the mine and relating with local stakeholders as part of this context. After this section, the reader will be able to understand BHPB Tintaya’s corporate performance before, during and after the dialogue process, but as a part of this particular mining context.

2.1.1 Presentation of Two Particular Ways to Do Mining in Peru

Mining companies that began to operate in Peru in the early 1990s wanted to differentiate themselves from the way old mining companies had been operating. Why did new mining companies want to show they were different? According to Arellano (2008:22) the old or traditional way to do mining in Peru was criticized because it generated negative environmental impacts and because there was a lack of
concern for the socio-political context in which it operated. On the contrary, the new way to do mining—the consequence of a mining investment process in the early 1990s in Peru—“is sensitive to local people, is environmentally responsible and makes local development one of its main objectives” (Arellano, 2008:22). The current section shows in detail both ways to do mining in Peru.

The old way to do mining is the way to do mining before the 90s in Peru. It had three important features: (1) the decrease of mining production; (2) serious and negative impacts on the environment; and (3) an arrogant and aggressive attitude against rural populations.

(1) Peruvian mining operations were state-owned companies that had many production problems. In 1968 the Military Government of General Juan Velasco Alvarado began a series of wide-ranging economic and political reforms in Peru. These changes resulted primarily in the nationalization and expropriation of important extractive industries and the reconfiguration of land-tenure patterns.¹ The new state-owned companies were controlled by the state as part of self-rule military ideals, among them the elimination of foreign influences in Peruvian industry.

However, the role of the Peruvian state as owner of these industries was not optimum. Between 1981 and 1990, corruption problems, the lack of a competent body of public servants, an official aversion to long-term planning (Arellano, 2008) and a very serious economic and political crisis (inner guerrilla-terrorist activities)² weakened the Peruvian state. As a consequence of the crisis, the way the Peruvian state controlled its state-owned companies—among them mining companies—was seriously affected. For instance, the public investment in the mining sector decreased from an annual average of US $342,9 million between 1980 and 1984, to an annual average of US $81,5 million between 1985 and 1990. In addition, the mining activity participation in the Peruvian Gross Domestic Product—GDP—decreased from 0.8%

¹ The Military Government of Juan Velasco Alvarado (1968-1980) had control of Peru through a coup. As part of his interests, Velasco began a series of wide-ranging economic and political reforms called the “Peruvian experiment”. The military coup under this system tried to abolish the dependency of Peru of foreign influence and creating a new social order. This economic and political agenda resulted in nationalization of extractive industries (minerals and oil mainly), a reconfiguration of land-tenure patterns (agrarian reform), and the enactment of a host of expansive social programs (Bury, 2005:21).

² By 1990 annual inflation rates were higher than 7500%, GDP had decreased by more than 30% in three years, and guerrilla violence was escalating throughout the country. This economic, social and political context created high costs and disadvantages for the mining sector and a negative climate for long-term investments (Skidmore and Smith, 2001; Pasco Font, 2000).
(1980-1985) to 0.2% (1986-1990) (Campodónico, 1999). As a result of the Peruvian political and economic crisis, state-owned mining was an activity in decline.

(2) Mining operations have caused environmental degradation in the Peruvian countryside for years. All mining operations are located in rural areas of the Peruvian countryside in which the power of the state has been weak for years. As a consequence of lacking state capabilities, mining operations functioned without appropriate control of the state.

One of the main reasons related to the Peruvian state’s lack of capability to control mining was an inadequate legal framework. Peruvian environmental laws and policies to rule extractive activities—among them mining activity—were weak or nonexistent before 1990. It was only just in the 90s that the great majority of the environmental legislation was promulgated and the environmental policies were elaborated by the Peruvian state. For instance, the first promulgated environmental law in Peru was the Code of the Environment and Natural Resources in 1990. This norm articulated the environmental competencies scattered across diverse sectors of the state. However, the Code was not developed enough to create an environmental legal framework that could guarantee environmental protection or strengthen the state.

The bureaucratic apparatus of the state did not have sufficient capacity to control mining activity, especially in the Peruvian countryside, where mining operations were carried out. Without adequate control from the Peruvian state, mining activity became therefore an extremely polluting activity, generating serious negative impacts on the environment. It is significant to say that most of the serious environmental damages are generated during the mineral extraction process (e.g., oil spills, acid mine drainage, smog, cyanide spills, etc.). In some cases the damage continues after mining activity is finished. For instance, today in the Peruvian territory, 850 environmental legacies and waste materials³ are still diminishing local environment (MEM, 2006). The great majority of those environmental legacies are the result of

³ Law 28271 (2004.04.06) regulates the environmental legacies of the mining activity. This norm defines environmental legacies and raw material as “All the facilities, effluents, emissions, rest or deposits of residues produced by mining operations, at present left or inactive and which they constitute a permanent and potential risk for the health of the population, the surrounding ecosystem and the property”.

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mining activity previous to 1990. An example in particular is Chinchaycocha Lake, located in Peru’s mountains. Due to the tailing deposition of different mining companies throughout at least 80 years, polluted lake waters negatively affected rural people’s livelihood, as well as the ecosystem and wildlife of the lake.

(3) Rural people were treated in an arrogant and discriminatory way by miner workers. The third characteristic of the old way to do mining was an unbalanced confrontational context between farmers, rural people –most of them poor and powerless- and mining workers. Peru is one of the most unequal countries in Latin America. According to the World Bank, poverty in Peru is elevated: in 2004, 51.6% of Peru’s population was poor, and about 19.2% was extremely poor, and many of them live in the Andean countryside (World Bank, 2005a). On the other hand, discrimination of indigenous people and mixed raced people -most of them part of the poor and rural population- by the white elites has characterized Peruvian society for years. Then, poor and rural people –among them, rural communities- were discriminated and treated arrogantly by miner workers and miner elites.

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4 For instance, in 2008’s first trimester, the environmental remediation of one of the main environmental liabilities generated by the old mining activity in the Department of Junín (central mountain range, Peru), the Kingsmill tunnel, had to start. The purpose of this construction is to drain water with copper oxide of the Morococha mining operation. Operations of Morococha mining concluded more than 50 years ago. However the old liabilities continue spilling polluted water into the Yauli and Mantaro rivers. (El Comercio 2007/11/14). Aluminum Corporation of China (Chinalco), which is responsible for the tunnel, assures that the acid water treatment plant will be ready in November 2009 (La República 2008/05/06).

5 The environmental degradation of the ecosystem of Chinchaycocha Lake has been caused by contaminated water-drainage of mining companies since 1929. Mining activity in this region started in 1929 with the operations of Cerro de Pasco Cooper Corporation. In 1968 the mining was expropriated by Velasco Alvarado government. After that, the state-owned Centromín Peru Company managed the mine from 1968 to1994. Today Volcan, Brocal and Aurex are the companies in charge of mining operations after privatization processes. In all this time, mining polluted waters have affected negatively the lake. This water-drainage brings about the flood of the creeks and the soil bordering the lake. The flood affects the territories of the coastal rural communities: Vicco, Ninaccaca, Cochamarca (Department of Pasco); Carhuamayo, Huayre, Villa Junín, Ondores and San Pedro de Pari (Department of Junín). During many years, this conflict received poor attention from the state. An attitude of laziness from the mining companies against the environment has sustained. Hence, a context of constant social confrontation is generated because farmers see their rights to a worthy life and their right to development in a healthy atmosphere mistreated as well (For more information about this case, see Aste, De Echave and Glave, 2003)

Consequently, the old way to do mining was criticized as an unproductive and inefficient economic activity in a convulsionary context of pollution, poverty and discrimination.

By the early 1990s, the breakdown point between the old way and the new way to do mining started. After economic and political crisis in Peru in the 80s, Alberto Fujimori’s semi-authoritarian government (1990-2001) restructured the Peruvian state and economic realm according to orthodox neo-liberal principles. His main goal was to integrate Peru into the global international economy but against the rule of law. For this, Fujimori took the control of the institutions that had contrary opinions to his intentions -for instance the congress and the courts. After that he began to rule the state under an ultra free-market view (ultra laissez-faire principle version). As part of this view, Fujimori considered it necessary to create a favorable climate for foreign direct investments (FDI). For that purpose, the government lifted restrictions on remittances of profits, dividends, royalties, access to domestic credit and acquisition of supplies and technology abroad, offered tax-stability packages for foreign investors, promulgated a new legislation that highlighted the importance of foreign investments for the economic progress, and implemented wide-ranging privatization programs (liberalization of investments regimens) (Glave & Kuramoto, 2007; Bury, 2005; Campodónico, 1999; Crabtree, 1998).

As part of Fujimori’s neo-liberal economic and political model, privatization of state-owned companies represented the possibility to make them more productive and efficient. For Fujimori’s government, state-owned mining industries were unproductive and inefficient because the way they were managed was inadequate. Thereby, the solution to make state-owned companies competitive was to change the control from the Peruvian state to private foreign investors.

In addition, it is important to mention that Peruvian mining potential has been always recognized as important for political elites. Despite all the production problems, the mining industry had a world first-class image for mineral exploitation. However, the climate of crisis did not permit investment in Peru. Fujimori sought to show a more stable Peruvian state under his control to take advantage of the mining image. The main objective was to show Peru as a potential investment target.

Therefore, to attract foreign investments in the early 1990s, the state -following Fujimori’s goals-started a privatization program of mining companies. In addition, a strong rise in metal prices in the 1990s -called a mining boom- and an increasing demand for commodities from emerging economies
(UNCTAD, 2007) favored a good investment climate in extractive industries around the world—especially in mining—that favored Peru as well. As a consequence, according to the Peruvian Ministry of Energy and Mining—MEM—(2000):

- Between 1992 and 2000, more than 200 Peruvian mining operations were privatized—i.e. bought for foreign corporations—; and
- Since 1992, foreign investments in new projects to exploit new mineral deposits in great mining increased (i.e., Yanacocha, Antamina, Pierina).

Mining operations were bought and managed by foreign mining multinational corporations—MMNC. These corporations had to maintain increased production rates. So, for the last 15 years, mining activity has been one of the most important economic activities in Peru. For instance, as MEM points out, US$9.8 billion were invested in the mining sector between 1992 and 2004; between 1994 and 2004, mining participation in Peruvian GDP rose from 3.5% to 8.6%; the activity (including prospecting, exploitation and processing) increased 9.7%, while the Peruvian economy growth increased only 4% in the same period; the export earning ramp up from US$ 1,971 MM to US$ 4,573 MM (132%), and in 2004, mining exports represented 51% of the national total rate. In addition, in that period, 31% of the FDI came from MMNC investments only in mining (in 2008 FDI in mining was US$ 3,510.4 MM – 20.81% of the national total rate) (MEM, 2004; World Bank, 2005b). Thus, mining has had an important role as part of Peruvian macroeconomic model in the last 15 years: it is a new mining-based economic model that continues today.

A mining activity supported on increased transnational investments generated a new way to do mining in Peru. Furthermore, this new way represented the possibility to operate mines with new technology to raise minerals production in an efficient way. However, negative impacts on the environment and in rural livelihood, as well as an aggressive attitude against rural people— as part of old way to do mining style— continued in spite of economic changes.

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7 Some mining operations privatized between 1992 and 2000 are: Buenaventura (Benavidez Group - Peru); Minpeco (Inga Kibo – Brasil); Hierro Peru (Shougang – China); Cerro Verde (Cyprus Minerals – EEUU); Ilo Metal Refinery (Southern Peru – EEUU); Tintaya (Magma BHP – Australia); Cajamarquilla Metal Refinery (Cominco – Canada Japan); La Oroya Metallurgical Complex (Doe Run – EEUU); Cobriza (Doe Run – EEUU) (MEM, quoted in Campodónico, 2005).
2.1.2 Negative Impacts on the Social Well-Being Generated by The Way Mining Was Done in Peru

Foreign investments in mining generated economic prosperity for the last 15 years in Peru. In addition, the new investments generated a political debate about how the state should achieve development. The main core of this political debate was centered on the idea that most public policies should be supported by mining wealth to achieve development. In that sense, political parties, as well as business and commercial Peruvian elites consider that with this new mining-based economic model, development and prosperity are possible.\(^8\)

Besides this view, Peruvian official discourse from the last 15 years has emphasized the continuity of FDI to generate major levels of mineral extraction. The main idea behind this discourse is that with the capital gain of FDI, development might be possible (See García, 2007)\(^9\). For instance, it is important to mention the work of the Private Investment Promotion Agency Peru – PROINVERSION. This institution is in charge of promoting Peru as an important investment target in the global economy today. The Agency promotes the country based on the sustainable growth of the economy in the last 15 years and the variety of natural resources -among them, minerals- that could be exploited by foreign investors (PROINVERSION, 2008), among other reasons. Furthermore, PROINVERSION’s web page highlights the high rates of mining production in the last 15 years to attract FDI in mining -and as a guarantee for promising investors that new investments will be secure in Peru.\(^10\) Thereby, for the

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\(^8\) For instance the Society of Foreign Trade in Peru – COMEXPERÚ’s- weekly magazine emphasizes the importance of mining in Peru’s development and the importance of FDI in the mining sector (COMEXPERÚ N° 488, 15-21/09/2008). It is important to mention that these assertions were published in the magazine in the previous context of the Asia-Pacific Economic Cooperation –APEC- meetings carried out in Lima, Peru, 16th-21st November 2008. For more information about why mining is considered important for development in Peru, see also Sociedad Nacional de Minería, Petróleo y Energía, or SNMPE (www.snmpe.org.pe).

\(^9\) In 2007 Alan García Pérez, current President of Peru, wrote in El Comercio, the most important Peruvian newspaper, three articles, titled El sindrome del perro del hortelano (“Syndrome of the dog of the market gardener / dog in a manger”). These three articles show García’s considerations about how to govern Peru. They present García’s perspective in economy, politics, and social development, among other issues. The main idea of the first article was to present some reasons in favor of the way the Peruvian economy has been ruled. In particular, Garcia mentions the necessity of major levels of foreign investments, the privatization of natural resources as well as the important role that the mining plays in Peruvian development. In addition, García indicates that whoever is against these ideas is against the development of Peru, considering them egoistic and enemies of the national wealth, as a dog of the market gardener (El Comercio, 2007/10/28).

\(^10\) On the PROINVERSION main web page, mining activity has an important role of promoting Peru as an investment target. In that sense, PROINVERSION, to increase Peru’s image as a mining country, shows that Peru is the world’s second biggest producer of silver; the third of zinc, cooper and tin; the fourth of lead and
Peruvian state, FDI in mining has been (and is) a process that must continue to achieve economic growth and social development.

However, this new mining-based economic model -supported in an official discourse- helped Peruvian economic growth, but did not indeed solve social problems (Bebbington, 2008). According to Arrellano:

“Despite the Peruvian government’s compliance with orthodox economic and political prescriptions, the problems of persistent poverty, and increasing mining-based economy, and conflict reveal that Peru faces serious political challenges related to mineral resource extraction.” (2008:11)

For the last 15 years, the mining-based economic model was the most important change in Peruvian macroeconomic realm. The figures shown at the end of section 2.1.1 represent how economic rates increased quickly in the last 15 years based on FDI. However, many social problems – mainly poverty - did not change despite the new financial wealth. New and old mining operations are located in Peruvian countryside. Most of the poor population inhabits the countryside as well, and both have been interacting constantly. Then, a contradiction between levels of wealth and high levels of poverty was one of the reasons that generated a climate of mistrust against mining.

Nevertheless, it is vital to mention that the causes of different reactions against mining are more complex than a simple confrontation between poverty and wealth. According to the World Bank (2005b), mining operations cause confrontations between mining operations and rural communities in Peru for three reasons: unfulfilled social expectations and grievances, encounters for use of natural resources -land and water mainly; and pollution of rural environment.

The first reason stated by the World Bank is that an official discourse on the strategic importance of mineral wealth raises popular expectations that most of the time are unfulfilled (World Bank, 2005b). molybdenum; and the fifth of gold (MEM, 2007). The agency enhances the facilities that entrepreneurs have in mining activity in Peru, as the flexible private investment legal frame as well. In addition, the agency enhances the Peruvian geological richness and the increased demand worldwide of suppliers that has increased Peruvian mineral production (for more information, see PROINVERSION: http://www.proinversion.gob.pe/0/0/modulos/JER/PlantillaSectorHijo.aspx?ARE=1&PFL=0&JER=856).
Mining companies have operations in the Peruvian poor rural countryside, most of them in the poorest Departments of Peru. For instance, according to the Ministry of Woman and Social Development of Peru (2008), 78% of the people are poor and 74.7% are extremely poor in the Department of Apurimac -where BHPB Co. has Las Bambas mining operation; 77.4% of the people are poor and 50.9% are extremely poor in the department of Cajamarca -where Newmont Co. has the Yanacocha mining operation, the highest gold mining operation in Latin America; and, 75.3% of the people are poor and 51.3% are extremely poor in the Department of Cusco -where today Xtrata Co. is the owner of the Tintaya mining operation.

In the scenery showed previously, social expectations of rural people increased promptly. Most of the social expectations were related to the idea that -as Peruvian governments and business elites have stated several times- mining leads to development. However, mining did not overcome it directly. On the contrary, mining might overcome poverty but it must not do it. As a consequence, rural communities perceived that their expectations were unfulfilled by mining (World Bank, 2005b) because most of them thought mining could change their livelihood.

Remarkably, mining did not know how to handle social expectations. On one hand, rural society in Peru has short-term expectations related to benefits that mining could fulfill: for instance employment and fair compensations after land purchases, among others. However, several mining companies could not adequately fulfill different social expectations related to overcoming poverty in the short-term. On the other hand, mining corporations did not face social expectations in an accurate way. On the contrary, they did not consider social expectations and grievances as important or relevant to the way they were working, nor as an obligation as part of their corporate responsibilities (for instance, Yanacocha case). Then, a climate of mistrust was generated based on different unfulfilled social expectations related with local development.

The second reason for conflicts with mining operations stated by the World Bank is that mining companies compete with rural people for the control of natural resources –mainly land and water-

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11 In the Peruvian rural areas 72% of population is poor, and 42% is extremely poor (Francke, 2006).
12 For more information about the real impacts of mining in the standard of live of rural population see De Echave, J. & Torres, V. (2005) Hacia una estimación de los efectos de la actividad minera en los índices de pobreza en el Perú. Lima: Cooperacción.
which are considered crucial property by the rural population (World Bank, 2005b). According to Glave and Kuramoto (2007), in Peru there are seven mining conflicts related to how mining corporations purchased or acquired land to start their operations (the most important cases are Yanacocha, Antamina and Tintaya).\textsuperscript{13} Large-scale mining activity represents not only huge investments and the use of new technology, but also the use of land and water. As a matter of fact, mining needs large areas of land, of which the owners are usually rural farmers and indigenous communities – most of them poor and powerless. The arrival of a new mining operation implies land purchases for rural people that might represent losing their land. As a result, the loss of land causes social reactions, a climate of mistrust against mining, and the perception that mining negatively affects the well-being of rural people.

In the Peruvian context for natural resources control, mining companies have had a greater chance to obtain lands. This chance occurred mainly because a new mining legislation was promulgated that highlighted the importance of foreign investments in mining for the Peruvian economic progress. This new Peruvian legal framework generated favorable conditions to mining, especially land acquisitions. However, those changes were against the farmers’ rights as well.

As part of this legal change, two groups of new laws allowed a flexible and favorable climate in land acquisition but weakened farmer’s property rights. The first group of legal modifications supported private mining investments in Peru. For instance, the Law of Promotion of Investments in Mining Sector -Law Decree N° 708 (1991) - and the Ordered Unique Text of the General Law of Mining - Supreme Decree N° 014-92-MEM (1992) - stated the disappearance of state-lead mining, reduced state control and state intervention on the private activity, established incentives for the foreign investment\textsuperscript{14}, and declared the promotion of the investments in mining as a national interest. In that sense, for the Peruvian state, mining is not only important for the economy, but the activity itself is also legally understood as an axle for the national progress. Then, promoting and facilitating mining activity is a labor that should be done by the state. However, some governments identify national interests with

\textsuperscript{13} For more information see Aste, et al. 2003.

\textsuperscript{14} Some concessions that were granted to mining companies include: companies operating in Peru do not pay royalties for the minerals they extract; mining companies do not need to pay tax on profits until they have recovered their initial investments; and the state has renounced its right to introduce changes to fiscal policies without the companies’ approval (Arellano, 2008).
business interests. And they seek to promote those interests under questionable circumstances (Reed, 2002).

Beneath the idea of promoting and facilitating mining, a second group of new legislation was promulgated. This second group set the stage for a modification of land-tenure rights in order to facilitate new private and individual land ownerships –among them, private mining companies (Bury, 2005). These law modifications of land-tenure rights related with mining activity were of two types.

- The first type of law modifications made the procedure of acquiring operation’s rights -mining claims- to exploit the mineral more flexible. For instance, mining claims increased throughout Peruvian territory from 4 million to 22 million between 1992 and 2000 -which means that 10% of Peru’s land is covered by surface mineral right claims, most of them in the countryside (CONACAMI, 2000). In addition, the MEM shows that 49% of mining claims are in the Department of Cajamarca, 32% are in the Department of Cusco, and 31% are in the Department of Huancavelica (MEM, 2000 quoted in Bury, 2005). As we have seen before, most of the people in Cajamarca and Cusco are poor or extremely poor; in addition, Huancavelica is the poorest department of Peru (88% of people are poor, and 74.45% is extremely poor). Thus, poor inhabitants in rural areas not only have unfulfilled social expectations, but also may only participate on land negotiations and purchases if a company decides a soil purchase.

- The second type of legal changes is established in Land Law N° 26505 (1995) which completes mining rights in land-acquisition. A mining right claim represents the right to exploit the mineral that is in the subsoil. That means that a mining corporation is the owner of the right to use the subsoil but not the land. Thus, if a conflict exists between a mining company that has a mining right claim and the landowner that has a surface property right, the mining company could initiate a land transfer process called easement (Servidumbre minera). The easement represents that a mining company can buy land of farmers by a process that compel farmers to sell. Because landowners do not have subsoil rights, “the use of easement is not considered expropriation although it is tantamount to it” (Barton, 2008:23) because if farmers do not want to sell to a mining company, the company can take the land and pay for it without negotiation. In this context, the easement process has reduced the negotiating power of local communities.
who stand to lose their territory without fair payment if they decline to sell to mining corporations. Most of the new mining operations (Yanacocha, Antamina, Tintaya, Pierina) are accused by local communities of practicing this strategy as part of land purchases (Aste et al., 2003).

As we can see, mining companies have been competing with rural inhabitants for the control of land and water. However, mining companies have had more opportunities to get control of natural resources due to a favorable legislation that was seeking to promote the activity.

Finally, according to the World Bank, the third reason that causes social conflicts in Peru is that mining is perceived as a polluting activity itself that has not changed in time.\(^{15}\) Rural communities depend on the natural environment for their livelihoods that are in degradation constantly due to different mining operations. Not only land, but also water (watersheds, rivers, etc.), air, human health and animal health (livestock and wildlife) have been affected by mining for a long time.\(^{16}\) Some of these impacts are the degradation of ecosystems through the process of extraction, refining and transportation, and the deprivation of the local environment through the use of products of mining operations such as oil.

To summarize the current sub-section, the social, economic and legal context while mining activity has been operating in the last 15 years in Peru has been complex. This context allowed a particular way to do mining that generated social conflicts. Despite all the new investments in mining in the last 15 years, current and prospecting mining operations have been the cause of different social and environmental conflicts in which the state’s role has been weak or inappropriate. Those conflicts are mainly based on unfulfilled expectations and grievances, environmental damages and inadequate consideration of the rights of rural populations and local communities (Defensoría del Pueblo, 2007; World Bank, 2005b). Furthermore, social conflicts have increased mostly because mining corporations

\(^{15}\) According to Glave and Kuramoto, 28 mining conflicts in Peru are related with the use and pollution of water only.

\(^{16}\) As we have seen, one example of environmental degradation caused by mining operations in the last century is the case of Chinchaycocha Lake. Another example is the mining town of La Oroya, a short distance from Peru’s capital, Lima. People of La Oroya have been living beside La Oroya Metallurgical Complex and the metal smelter since 1929. In all these years, the smog of the refinery has affected people’s health. For more information on this case, see Barandiarán, A. and Cederstav, A. (2002) *La Oroya cannot wait*. Lima: AIDA & SPDA. Available at: [http://www.globalgiving.com/pfil/612/projdoc.pdf](http://www.globalgiving.com/pfil/612/projdoc.pdf)
have neither handled the social expectations of local communities appropriately, nor managed environmental awareness (Barton, 2008; Aste, et al. 2003).

Despite new technology in mining prospecting and exploitation, mining corporations did not identify how to adequately manage social conflicts with local host communities. Old encounters in Peru between rural inhabitants and mining workers (Cerro de Pasco, La Oroya, Tintaya) continued after the new way to do mining started in the 90’s. Furthermore, in the last 15 years, when mining corporations initiated new operations (Yanacocha, Antamina, Tintaya), new conflicts started with protests and roadblocks, public demonstrations against mining, and confrontations between farmers and miner workers. Therefore, the Peruvian context in which mining has been operating in the last 15 years represents a contradiction between a climate of economic prosperity and a climate of social and environmental conflict. This context represents a climate of mistrust against mining (Bebbington, 2008; World Bank, 2005b). However, mining companies have to coexist with local communities that do not trust in them. Consequently and as point of departure of the next section, how can mining engage with its host local communities in a context of mistrust and constant confrontations?

2.1.3 Role of CSR in a Climate of Mistrust against Mining

Most of mining’s negative impacts were a consequence of the way in which mining has been done in Peru. However, it is important to highlight that mining in Peru has acted in a lawful and profitable way because the legal and economic context allowed it. Social impacts that were beyond the legal framework were not considered to be their direct responsibilities. In addition, social expectations were not considered as significant to guide their performance. As a consequence of this legal and profit-based corporate performance, negative impacts and the lack of consideration of social expectations added to the climate of mistrust against mining in Peru.

According to Barton (2008), “(…) mining corporations have traditionally justified the impacts of their operations through a cost-benefit analysis”. This analysis finds the cost inflicted on local host

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17 According to Informe Anual de la Defensoría del Pueblo Peru [Peruvian Ombudsman Office Annual Report] 2007, in the last 10 years, the number of conflicts in Peru increased from 6 to 47 out of which 21 (60%) were related to mining activity (quoted in Arellano, 2008).
communities outweighed by the largely financial benefits received by the host country interns of taxes, job creation and exports (Jenkins, 2004). In other words mining operations were managed most of the time based on the cost-benefit analysis, which allowed some local actions that generated negative impacts on social well-being.

However, in a climate of mistrust against mining it is difficult to operate mines. Mining is an activity that engages with a number of different local stakeholders -among them local communities that live in the surrounding area of the mining operations. As I mentioned previously, most of the conflicts were connected with the way mining has been done, and the way mining operations have been related with local stakeholders, i.e. the way mining interacts with society. As a consequence, social conflicts affected the activity itself, compelling mining to take another course of action.

Mining corporations decided to change their corporate performance to be more accountable regarding their social responsibilities. However, why did mining corporations decide to change? According to Arellano (2008) this change began mainly for two reasons:

- Research was carried out several times, highlighting the impacts of mining on local communities, which affects the mining image around the world. Public opinion of the mining sector is poor due to environmental concerns. Most of the local communities’ grievances are related to environmental degradation –i.e. the way mining operations have been working- and an arrogant attitude and maltreatment of people –i.e. the way miners have related to rural inhabitants. And many society groups and NGOs (such as Oxfam and Friends of the Earth International) began to execute bad press and international campaigns around the world against the way mining activity was treating the local environment and rural people. For instance: PT Kelian Equatorial Mining –KEM- and the West Tutai communities in Indonesia; Jabiluka Mine and the Kakady National Park in Australia; Tolukuma Gold Mine and Yaloge, Mekeo, and Kuni people in Papua New Guinea; Australasian Philippines Mining Inc. and the communities of Barangay Didipo, in the Philippines, among other cases, represent how mining corporations

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18 For more information about research related to the impacts of mining on local communities around the world during the 90s, see International Institute for Environment and Development – IIED (2002) Breaking new ground: Mining, minerals and sustainable development. London: Earthscan. Available at: [http://commdev.org/content/document/detail/645/](http://commdev.org/content/document/detail/645/)
affected local communities and how international campaigns affected mining image (Oxfam, 2005; Jenkins 2004). In addition, those cases are good examples of how mining corporations changed their ways of mining, as well as their ways of relating with local communities.

- Conflicts between mining operations and local host communities harm current operations’ profits and put the viability of large planned investments at risk. According to Jenkins, “poorly managed disputes can reduce the legitimacy of a company’s activities in the eyes of the community and wider society” (2004: 24). In that sense, most of the mining initiatives cannot work because people do not trust in corporations. For instance, mining operations need a “license to operate”, a kind of permission given by local communities that legitimate the mining operation and its relationship with local stakeholders. The license represents a climate of trust between corporations and all who are possibly affected by its operations. It is a commitment to the idea that corporations can operate in an accountable way. Without it, the mining image becomes weak. Mining social initiatives cannot work or even begin as well. And production and profits decrease because mining corporations need the license to prove to clients and investors that they have a responsible commitment to the way they are doing mining.

Thus, mining corporations decided to take into account social expectations and local grievances—especially from local communities. This consideration meant that mining corporations reshaped the way of operating mines and the way they interacted with local communities. In other words, mining corporations changed the way they engaged with stakeholders, mainly local communities. That change meant as well considering social expectations as part of the elaboration of their CSR norms and policies because it guides how corporations ought to interact with society. As a result, the elaboration of CSR framework would imply that corporations should consider social expectations.

However, the CSR’s framework should be freely discussed by all who are possibly affected to confirm it as acceptable for guiding the corporate performance. As part of Chapter 3, I deeply discuss these ideas from stakeholder theory and Habermas’ Discourse Ethics Theory. Moreover, I seek to explain in the next chapter that CSR should be accepted as significant to guide the stakeholders’ relationship because all who were possibly affected by it participated in CSR elaboration through dialogue.
2.2. Tintaya’s Dialogue Table

Tintaya’s Dialogue Table started in 2001 as a communicative process between BHPB Tintaya mining company and the host local communities located around its operations. The present section presents the features of the Dialogue Table and how it was mainly set up. However, this particular communicative process should be understood as part of the last 15 years presented previously in section 2.1.

2.2.1 The Beginning of the Dialogue Process: Interaction between BHPB Tintaya and the Local Communities

Tintaya copper mine was established as a state-owned company called Empresa Estatal Minera Asociada Tintaya –EMATINSA- in April 1985. To develop the copper mine, the Peruvian state expropriated 2,368 hectares of land from the rural community of Tintaya Marquiri in the district of Yauri, Province of Espinar, Department of Cusco, Peru.\(^{19}\)

In 1985, several social expectations were held in the beginning of the relationships between the mining company and the local host communities. The most important expectation for the communities of Espinar -and mainly for the people of the Tintaya Marquiri community- was the possibility to change from a farmer livelihood to holding a job in the mine. However, the expectation could not be fulfilled by the mine. Most of the jobs in mining operations needed special qualifications that members of the communities did not have at that moment. The mine did not consider rural people to work in the mine, and people believed that mining did not offer jobs.

Another unfulfilled expectation by the mining company was the requirement not to damage rural environment with hazards generated by mining operations. However, mining caused negative damages on the local environment. These negative impacts were generated by a nonexistent environmental

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\(^{19}\) Espinar Province is located 260 km. from the city of Cusco. It is one of the poorest Peruvian provinces: 84% of the people are poor. In addition, 60% of the people reside in rural areas and 80% of them speak Quechua (Peruvian indigenous language) (BHP Billiton, 2004: Health, Safety, Environment and Community Report) Available at http://hsecreport.bhpbilliton.com/2004/repository/caseStudies/community25.asp
legislation to adequately rule mining and the lack of resources of the state to control the activity (See sub-section 2.1.1: the old way to do mining in Peru).

After the expropriation and the loss of land, the productive activities of Tintaya Marquiri were affected adversely. Moreover, people that lived in the land expropriated by the state had to move and to look for new land to inhabit. As a reaction, members of communities perceived that their property right was violated, as well as that they had been misled (Decoster, 2003).

In November 1994, Tintaya’ operation was acquired by USA-based Magma Copper Company as part of a favorable climate for foreign investments and Fujimori’s privatization program of state-owned companies in Peru. In January 1996, Australia-based BHP (Broken Hill Propietary) acquired Magma Copper Co. and all of its mining operations around the world, including the Tintaya copper mine. In 2001 BHP was merged with UK-based Billiton PLC and they formed the BHP Billiton –BHPB- mining consortium.

To increase the production and the mine’s profitability, the MMNC initiated land purchases in Espinar. Its main objectives were to increase the Tintaya mine’s capacity and to build a copper oxide plant and a new tailing dam.

In 1996 the company began new land purchases with the Tintaya Marquiri community. As part of a favorable climate of FDI in mining, the legal framework facilitated the acquisition of new lands by the mining company. In these new acquisitions, the company obtained 1,263 hectares of soil from this community. That meant that Tintaya Marquiri community lost 1,263 hectares from 1,293 has that it has after expropriations in 1985. Therefore, after the last purchase, the territory of the Tintaya Marquiri community was reduced to 30 hectares only. The main impact of these purchases was that the people of Tintaya Marquiri lost all the possibilities to continue working as farmers. Moreover, without land, most of the people of the Tintaya Marquiri community increased their poor livelihood conditions (De Echave, 2005; Aste, et al. 2003; Oxfam, 2002).
Between 1996 and 2001, BHPB Tintaya acquired lands from four other local communities.\textsuperscript{20} However, these land purchases were seriously questioned. Members of the communities claimed that BHPB Tintaya used the possibility to initiate an easement process as a threat if they did not sell their lands (Barton, 2008; Aste, et al. 2003; Oxfam, 2002).

Local communities that were negatively affected by BHPB Tintaya’s operations and policies claimed several grievances. On one hand, land negotiations and purchases processes originated confrontational situations between the company and the host local communities. On the other hand, environmental grievances were claimed by communities constantly, because the environmental damages generated by mining in Espinar were affecting their livelihood -for instance oil spillages and smog, among others. However, BHPB Tintaya did not handle these grievances in an accountable way. On the contrary, most of the time the company did not recognize these mining negative impacts as its responsibility. Moreover, mine representatives argued several times that the mine had been acting legally.

In that sense, according to BHPB (2008) and Oxfam (2002), the most important communities´ concerns –regarding unfulfilled social expectations and an inadequate way to work and relate with communities- were:

(1) Land negotiations and purchases were conducted under unfair conditions for the communities, since previous information was lacking and monetary compensations were not adequate (BHPB, 2008). Purchases were made in accordance with the Peruvian legal framework (See sub-section 2.1.2) that generated favorable conditions to mining land acquisitions. However, as we have seen, mining claim right is considered more important than farmer’s property soil right. If a conflict exists between a mining company that has a mining claim right and the landowner who has a surface property right, the mining company could initiate a land transfer process or an easement process. In that sense, members of local communities of Espinar claimed that people had been forced off of their land under the threat of starting an easement process, which is allowed by state legislation. Moreover, communities claimed that land-sale purchases involved corruption and fraud (De Echave, 2005).

\textsuperscript{20} The four communities are: Huano Huano, Alto Huancane, Bajo Huancane and Alto Huarca.
(2) People and cattle in the area have suffered ailments due to alleged contamination of water and air by mining operations and the old tailing dam. In addition, due to loss of land and the pollution of rivers, communities complained that they had lost the probability to live in a sustainable livelihood.

(3) BHPB Tintaya failed to support community-based projects designed to provide alternative livelihoods for communities. In addition, there was a lack of job opportunities at the mine for members of the communities.

In Espinar, BHPB Tintaya outlined its corporate behavior mainly by the legal (national legislation) and economic (national profitable goals) framework; i.e. BHPB Tintaya acted in that way because the economic and legal context allowed it. Nevertheless the company did not behave responsibly based on social expectations and community’s grievances. In addition, the company did not recognize several social and environmental impacts as its social responsibility.

As a consequence of its lack of responsibility, the way BHPB Tintaya carried out its mining operations generated social conflicts and a climate of mistrust against mining in Espinar. In addition, the conflict affected BHPB Tintaya CSR framework. In this case it is essential to mention that BHPB Tintaya had a CSR framework (codes, norms, policies, etc.) that guided not only the way they operated the mine but also its relationship with local stakeholders.

Before the beginning of the dialogue process, BHPB Tintaya considered its CSR framework as sufficient for the way mining was done, as well as the way in which the company related with local communities. On the contrary, BHPB Tintaya CSR’s framework was considered as useless and ineffective by the communities. Despite BHPB Tintaya seeking to fulfill some expectations through its CSR framework, local communities perceived that this frame was not adequate enough to guide the way the mine company was interacting with them.

On the other hand, and previously at the beginning of the dialogue process, each opportunity to bring BHPB Tintaya and local host communities closer was complicated and unsuccessful due to a climate of mistrust against mining activity in Espinar. This climate was increased due to an arrogant and discriminatory treatment against the rural population by mining workers. The confrontational attitude
did not allow participatory spaces to recognize that grievances and expectations were important for rural communities. Thus, many communities’ grievances and demands were not considered as relevant by BHPB Tintaya representatives, nor did the company adhere to those demands in the way in which they guided their work (De Echave, 2005).

In 2000, Oxfam America and the Canadian Environmental Law Association –CELA- prepared a report related to BHPB Tintaya’s corporate practices in Espinar. The report was sent in June 2001 to the Ombudsman from Oxfam Community Aid Abroad of Australia. In December 2001, a meeting was held in Lima between the Australian Ombudsman, BHPB Base metals, BHPB Tintaya, Oxfam America, Peruvian NGO Cooperaccion, the National Coordinator of Communities Affected by Mining (CONACAMI), members of local communities and the Municipality of Espinar. In that meeting, the Australian Ombudsman suggested the creation of a dialogue table among all participants on it. Furthermore, the dialogue process was considered essentially as a tool to bring closer BHPB Tintaya with host rural communities and to “(…) work jointly to arrive at solutions to the different problems that have been identified” (Oxfam, 2002) in which the other participants supported this aim. In that sense, the Dialogue Table was defined as follows:

“A voluntary cooperative process, of dialogue and free participation opened by various stakeholders, to find solutions to existing problems and opportunities for development in the influence area of Tintaya’s operations, i.e the province of Espinar.” (Xtrata Tintaya, 2008)

In order to present a more specific idea regarding who was participating in Tintaya’s Dialogue Table, it is necessary to describe the most important parties involved: the mining corporation and the local communities. As a fact, the dialogue process represents the possibility to engage different social groups that interact constantly when mining is done. On one hand, people that represent BHPB Tintaya are mostly managers, lawyers and engineers. They have worked in mining operations not only in Peru but also in other operations around the world and have a specific background in extractive industries. This group represents the interests of the company. On the contrary, people of the local communities of Espinar are rural farmers, most of them poor and non-Spanish speakers, with different kinds of limited capabilities, mostly in education skills and health. Moreover, rural population was considered as worthless when mining was done despite they were impacted by this activity.
As Oxfam Australia states (2002), from the beginning of the process it was agreed that participation would be voluntary, intensely participative and seek a harmonious long-term co-existence with mutual respect among all parties. This was the initial agreement over which dialogue started. In addition, four working Commissions were formed to identify problems and review solutions (BHPB, 2008; Aste, et al. 2003; Oxfam, 2002):

- **Land Commission**: dedicated to discussing, analyzing and proposing issues related to land-holding and previous purchases/sale agreements. The Commission received information from the communities’ members about past land negotiations and purchases that were questioned.
- **Environment Commission**: dedicated to discussing, analyzing and proposing issues concerning pollution, its prevention and control. It had the role of addressing specific incidents. Additionally, the commission began the development of an early warning system, plans for joint evaluations and monitoring, a health baseline for neighboring residents and a health baseline for the livestock in the area.
- **Human Rights Commission**: dedicated to deal with alleged violations of human rights.
- **Sustainable Development Commission**: dedicated to discussing, analyzing and submitting proposals related to community development. In that sense, the Commission evaluated various options to strengthen the productive capacity of communities.

In the four Commissions, parties involved in the dialogue process participated freely and actively. Moreover, all parties had the opportunity to propose ideas regarding how to work in the process. In that sense, as part of the work in the Commissions, members of the communities participated not only by giving data –for instance information about environmental damages- but by leading the commissions - for instance, the Land Commission was led by local communities from the beginning of the dialogue process. As a result, working teams have been an important learning experience. They strengthened the relationship between BHPB Tintaya and local communities and facilitated strategies that favor dialogue and consensus building regarding how to deal social expectations. In addition, the work in the Commissions implied mutual recognition and treatment with respect between BHPB Tintaya’s staff and rural population when working jointly (Oxfam, 2002).
2.2.2 Role of Dialogue in Tintaya´s Dialogue Table

In the last 8 years, the four Commissions of Tintaya´s Dialogue Table have been working successfully. As part of this work, many different results that favored community members were achieved. For instance (BHPB, 2008; Xtrata, 2008):

- It was jointly decided to relocate the Tintaya Marquiri community´s families who were affected during the expropriation and purchase process.
- Corporate Annual reports have included concerns of community members about pollution and its effects on local cattle grazing. Those concerns were considered to improve the way mining activity ought to be done.
- With NGO assistance, the host local communities have prepared strategic development plans, on the basis of which sustainable development programs are being developed.
- A joint environmental monitoring program has been conducted with communities that are mostly affected by mining activities.

In order to complement the idea previously shown and to understand the whole process and its success, three rapprochement phases could be identified into Tintaya process (De Echave, 2005). Such phases represent the manner in which all of the parties involved worked jointly based on active participation, and more importantly, how the dialogue allowed results that favored the communities and re-elaborated CSR´s framework. These phases are (Xtrata, 2009):

- Phase 1: Building trust based on dialogue among participants of the Tintaya´s Dialogue Table. This was the most important phase of the whole process. Building trust was a challenge for all parties in a climate of mistrust against mining in Espinar. They worked initially with the help of a facilitator. In this phase, rural communities expressed their main social expectations and highlighted the importance to include them in mining CSR framework. In addition, the four Commissions were proposed by all parties.

- Phase 2: Research, collection and analysis of information. This work was done by the four Commissions. The information was important to identify problems, elaborate reports and
arrange recommendations. To share information, it was necessary that BHBP Tintaya and the local communities enforce their mutual relationship (result of Phase 1). For the work of this phase, participation was voluntary and intensely, and all parties involved were sought to get mutual respect among all parties.

- Phase 3: Implementation of the recommendations presented by the four Commissions to address claims and grievances. The main goal of this phase was to implement measures to promote not only good relationships between BHBP Tintaya and local communities—for instance, the results shown previously were the result of this phase—but also to promote an legitimate way to do mining. As part of this work, questionable attitudes and CSR framework changed as well.

As Oxfam Australia argues (2002) from the beginning of the process it was agreed that participation would be voluntary and intensely, and all parties involved would seek a harmonious long-term co-existence and mutual respect among all each other. In that sense, to carry out the three phases -mainly Phase 1- the following settlements were agreed as guides to the discussion in the process:

- Disposition to dialogue (namely speaking and being a good listener) to build an ongoing CSR to engage with local communities. One of the key problems identified for the creation of Tintaya’s Dialogue Table were the limited and sometimes nonexistent levels of communication between BHBP Tintaya and local communities. Therefore, the Dialogue Table represented a horizontal communication bridge in which local stakeholders could participate with full freedom of expression to look for consensus.

- Treatment in equality conditions: social disparity between farmers and mining workers has been part of the social fabric in the conflict zone. The way miner workers treated communities was often considered rude and even discriminatory by rural people. The result was a weak relationship between mining and local communities. For that reason, a condition for the dialogue was that all participants should be treated in equal conditions with mutual respect.

- Assumption of responsibility - Accountability: members of the process took into account that there are facts that caused a series of negative impacts. These negative impacts affected the stakeholders’ livelihood. For that reason, all participants in the Dialogue Table made the commitment to understand that responsibilities should be assumed by the direct cause beyond the legal framework.
Hence, from these three characteristics I can recognize in their foundation the following principles as well:

1. All participants agree that dialogue is a builder of coexistence.
2. All agreements should be the result of consensus and dialogue.
3. All participants have the right to participate freely and without coercion of any kind in communicate spaces (for instance, the four Commissions).
4. All participants have the right to equal treatment based on the recognition and mutual respect of all parties involved.
5. All parties involved have to assume an accountable performance for their negative and positive impacts.

Continuing with the purpose of the thesis, I analyze in Chapter 4 the role of dialogue in the process, mainly in Phase 1. This phase represents not only that trust was built between BHPB Tintaya and the local communities, but also how dialogue should consider social expectations in part of the discussion of how local communities ought to be engaged with. These results were crucial to the whole development process as well (Phases 2 and 3). In the next chapter I will present the theoretical framework that I will further apply to the case to understand the role of dialogue in the success of the Tintaya´s case.

To summarize this sub-section, I identify three consequences of the Tintaya Dialogue Table: First, Tintaya´s dialogue process invited parties in conflict to work jointly. Secondly, BHPB Tintaya reshaped the way to do mining based on dialogue with local communities. Thirdly, BHPB Tintaya CSR´s framework was improved as the result of dialogue with the local communities.
Chapter 3 Analysis and Discussion of CSR based on Stakeholder Theory from a Habermasian approach

The aim of this thesis is to examine how mining companies can improve CSR’s norms and policies through dialogue with their host local communities. However, there are different views and interpretations of CSR. In this chapter I will mainly focus on explaining the foundations of CSR based on the Stakeholders Theory. To do that, I will focus on Edward Freeman’s approach regarding why corporations have social responsibilities and how corporations ought to engage with society, mainly with local communities. I will continue the analysis considering Jürgen Habermas’ work in relation to how dialogue with local communities can support an ongoing CSR’s framework.

3.1 Analysis of CSR as a Normative Approach that Rules how Corporations Ought to Engage with Stakeholders

Society expects corporations do what is right and fair and to fulfill their obligations. Hence, society expects a responsible behavior when corporations interact with people. This idea should be part of the elaboration of CSR’s frameworks because CSR guides how corporations ought to interact with society. The current section seeks to explain why CSR -based on the Stakeholders Theory- is a normative approach that guides corporate performance, the principal arguments against this approximation, and why good corporate relationship with stakeholders is the core issue of a responsible interaction between corporations and society.

3.1.1 Analysis of CSR as a Normative Approach

A. Carroll’s classical work about corporate citizenship submits four facets about what kind of responsibilities any corporation has. These responsibilities must be understood as a whole to identify what kind of social expectations corporations ought to fulfill in order to achieve a responsible performance. In that sense, he argues that corporations have economic, legal, ethical and philanthropic responsibilities (2006; 1998):
• Economic responsibilities: the corporation is an economic institution. Profit-making is required as part of the way in which corporations must work. Thus, corporations are expected to generate income adequate to pay good salaries and reward their shareholders.

• Legal responsibilities: corporations have to obey the law. The law reflects society’s point of view of “codified ethics” in the sense that it embodies fundamental notions of fair practices as established by lawmakers (Carroll, 1998).

• Ethical responsibilities: “ethical responsibilities embrace those activities and practices that are expected or prohibited by societal members even though they are not codified into law” (Carroll, 2006:37). Ethical responsibilities embody the full range of norms, and expectations that reproduce what clients, employees, shareholders, and the community regard as fair and just.

• Philanthropic responsibilities: they reflect current expectations of business by the public. These activities are voluntary, guided only by business’s desire to engage in social activities that are not mandated, not required by law, and not generally expected of business in an ethical sense.

This approximation represents what kind of corporate social responsibilities corporations have. Furthermore, A. Carroll (1999) points out that responsible corporate behavior is based on what society expects and how this conduct goes beyond the requirements of the law and the market. In other words, corporations should consider social expectations as part of the way they ought to act, and the consequences of that would be a responsible performance.²¹ Then, CSR represents the way how corporations consider social expectations.

However, it is necessary to involve those to whom an organization is responsible in order to improve this view. E. Freeman’s Stakeholder Theory is the most important proposal regarding how corporations ought to consider different groups that interact with businesses. His approach seeks to integrate social groups with a stake in the firm. These groups are called stakeholders, which are defined as “any groups or individuals who benefit from or are harmed by, and whose rights are violated or respected by, corporate actions” (Freeman, 1984a; 1984b). More specifically, his approach includes as stakeholders

²¹ Carroll’s model is the foundation of the most recognized definition of CSR: “The [corporate] social responsibility of business encompasses the economic, legal, ethical, and discretionary (philanthropic) expectations that society has of organizations at a given point in time” (Carroll, 2006: 35).
suppliers, customers, employees, stockholders, and the local community, among others. The basic idea is that corporations have a fiduciary relationship to all those groups and individuals who have a stake or claim in the firm. Further, corporations should be managed so that the interests of all stakeholders groups are considered, even if those interests are not profitable for the firm (Freeman, 1984a, 1984b). In that sense, Freeman’s (1984a) argues that:

- Corporations ought to consider in their work different groups that interact with it in their social context and environment and their expectations.
- Corporations must change to a managerial model based on the incorporation of the external environment of the company –i.e. social expectations- into their decision-making process.

If CSR is the way in which corporations ought to consider the social expectations of stakeholders when they work and interact with society, then good relationships with stakeholders represent how corporations apply CSR in the manner they interact with society. This assertion represents a social expectation and a corporate moral obligation. In that sense, CSR based on the Stakeholders Theory is considered as an ethical normative theory regarding how corporations ought to act. Indeed, corporate responsibilities will be the responsibilities that corporations have with stakeholders.

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22 Stakeholders’ theory has been improved from a practical approach to identify who are and who are not stakeholders. For instance, M. Clarkson’s (1995) classical work improves the stakeholder’s theory when he recognized primary and secondary stakeholders. Primary stakeholders are defined as those groups that are essential to a company’s operations. Without these groups, a corporation would not be able to maintain its operations. The secondary stakeholders are those groups that although they influence and/or are affected by the company, are neither engaged in economic exchanges with the firm nor fundamental to its daily survival (Clarkson, 1995, quoted in Moir, 2001: 19).

23 By normative ethics I here mean the ethical approach that involves substantive proposals concerning how to act, how to live, or what kind of person to be (Kagan, 1998)

24 Freeman’s Stakeholder Theory has been complemented by many scholars of normative ethics. For instance, J.E. Post et al. in their article “Managing the Extended Enterprise: The New Stakeholder View” raised an interesting view of the Stakeholder Theory as a normative ethical theory that states how corporations can contribute to the social well-being. They argue that the “Stakeholder Theory asserts that corporations have a duty to both the corporation’s shareholder and individuals and constituencies that contribute, either voluntarily or involuntarily, to a company’s wealth-creating capacity and activities, and who are therefore its potential beneficiaries and/or risk bearers” (quoted in J. Smith, 2003:85). J. Smith argues that “according to the Stakeholder Theory, managers are agents of all stakeholders and have two responsibilities: to ensure that the ethical rights of no stakeholder are violated and to balance the legitimate interests of the stakeholders when making decisions” (2003:86). And D. Donalson and L. E. Parson held that the stakeholder theory has a normative core which guides corporate actions, based mainly on two reasons: (1) stakeholders are persons or groups with legitimate interests in procedural and/or substantive aspects of corporate activity; and (2) the interests of all stakeholders are of intrinsic value (quoted in Garriga and Melé, 2004). This group of scholars
For the aim of this thesis it is necessary to focus the analysis on the local community. As I have mentioned, corporations engage with different kinds of stakeholders and they should fulfill different kinds of social obligations. Thus, corporations should be profitable for shareholders’ interests, they should obey the law, they should produce good quality products for consumers, etc. In a sense, stakeholders and their interests can be identified without difficulties by corporations. Nevertheless, in the case of the local community, companies need a global view that crosses beyond the immediate town, city or state where business is located. Mc Alister et.al define the local community as “those members of society who are aware, concerned or in some way affected by the operations and outputs of an organization” (2005:211). The definition represents an interesting point of departure to identify who might constitute the local community. However, for my aim, the local community should consider what Mc Alister et al. point out and focus on the group of people that live surrounding the operations of a company that interacts constantly with it.

Most of local communities’ concerns include pollution, land use, economic advantages to the region, and discrimination within the community. These concerns imply that corporations might negatively affect local communities as a consequence of the way they work. Freeman argues that corporations cannot expose communities to unreasonable hazards in the form of pollution, toxic waste and so on argues not only for the idea that society expects that corporations guide their performance based on the responsibilities they have, but for their role as supporters of social well-being and the respect of people as well. 25

Why do corporations have responsibilities regarding the interaction between them and their stakeholders? I will present two approximations of business ethics to answers this question: The social contract approach and the Kantian theory for corporate work. Both approaches are significant ethical normative approaches that have influenced and developed Freeman’s Stakeholder Theory. The social contract approach considers corporations as social institutions -like a government- in constant interaction with stakeholders. This interaction is based on free agreements or contracts, and ruled by social norms. D. Donaldson and W. Dunfee (1999, 2002) argue that social norms serve as the foundation of rules for corporate behavior towards stakeholders. Thus, for corporations, a socially responsible behavior would be a corporate performance supported on and congruent with the prevailing social norms, values and expectations (Sethi quoted in Fisher, 2004:396). The social agreement means that society allows business to exist only on the condition that they seek to benefit all of their stakeholders –i.e. corporations have to fulfill social obligations to contribute to the stakeholders’ well-being. Thus, CSR is not motivated by commercial interest, but because it is part of how stakeholders expect business to operate based mainly on social norms and contractual social agreements. The Kantian version of the Stakeholder Theory is based on the idea of the motive of duty. In their article “A Stakeholder Theory of the Modern Corporation: Kantian Capitalism”, W. Evan and E. Freeman considers as the foundation of the Stakeholder Theory, Kant’s notion of respect for persons: each person has a right not to be treated as a means to an end. In that sense, they argue that “the very purpose of the firm is to serve as a vehicle for coordinating stakeholder interests. (…) The corporation serves at the pleasure of its stakeholders, and none may be used as a means to the ends of another without full rights of participation in that decision” (Evan & Freeman, 1993:262). In that sense, stakeholders must participate in determining the future direction of the firm in which they have a stake (Freeman, 1984b).
Moreover, he argues that if corporations identify some kind of danger, they ought to inform the local community and to work together to overcome the problem. As a result, the relationship between corporations and the local community would be based on not damaging society while they are working. Plus, local community expects as a responsible performance that corporations do not affect them negatively.

In the case of mining, there are several stakeholders with whom companies interact. As part of this interaction, mining interrelates constantly with local communities that live around its operations. As part of their work, mining corporations ought to recognize not only the local community that surrounds their operations, but they ought to identify how their operations can affect the communities’ livelihood as well. In that sense, mining CSR should consider a set of responsibilities and obligations with local communities. For instance, if a mining company needs to remove a mountain because the mineral is inside it, it is probable that local communities that live near the mountain could be affected by this action. If local communities might be affected by mining operations in several ways, then corporations should consider how to engage with local communities in order not to generate negative impacts on them. This should be accomplished through CSR.

If CSR based on the Stakeholder Theory is considered as a normative approach, it guides the way mining corporations ought to act with society. For instance, local communities can expect as a responsible performance that corporations do not pollute when they extract minerals because society considers the environment to be important for social well-being. Additionally, local communities must participate in determining the future direction of the firm in which they have an interest or a claim. For instance, if a mining company should move a mountain to exploit the mineral on it, it has to know what local communities consider as important regarding the mountain, as well as assume that local communities should participate in the way they ought to do their work.

3.1.2 Critics in Opposition to the Relationship between Corporations and Stakeholders

CSR based on the Stakeholders Theory imply that business is influenced by other parts of society and must take responsibility for these effects, but they have been criticized. The two most important critiques against this approach are that corporations should focus on being profitable rather than
fulfilling social expectations, and the fact that it is difficult for corporations to identify stakeholders and their interests.

The first critique is based mainly on Milton Friedman’s argument: the only one social responsibility of business towards society is the maximization of profits to the shareholders within the constraint of the law and ethical custom (1970). This argument represents a purely profit-based responsibility of business. The approach defends that corporations ought to relate to society based mainly on the rules of the game –i.e. the market and legal rules, and the ethical customs. Additionally, corporations can perform some social and ethical actions if and only if these might increase profitability. In that sense, the way corporations ought to relate to society would represent a performance based mainly on working to be profitable, obeying the law, and seeking to execute some social and ethical initiatives if these might increase wealth.

I lack space in this section to canvass the debate between representatives of a shareholder approach and representatives of a stakeholder approach. However, I can present two assessments against a profit-based position. The first one is that being responsible does not mean not being profitable. Social responsibilities and short-term and long-term profitability are not irreconcilable. Moreover, according to Trevino and Nelson “there is evidence that there is a link between social irresponsibility and negative stock market returns” (1999, quoted in Fisher 2004: 396). Corporations can be profitable and responsible at the same time. The second assessment to critique the profit-based view considers it as a narrow and minimal ethical motivation to interact with stakeholders. For instance, if the main responsibility of business is only a fiduciary corporate-shareholder relationship, this conclusion would allow corporations to do business under morally reprehensible conditions in different contexts (Werhane, 1994). So a corporation could pollute, discriminate against women, or practice apartheid in South Africa if the legal and market rules allow these kind of practices, or do not control them effectively. As a consequence, this kind of behavior could generate social reactions against corporations and the way they interact with society.

The second critique against the Stakeholders Theory is more practical. The argument does not deny that corporations ought to recognize stakeholders. On the contrary, it assumes that the identification of stakeholders is a possibility in corporate performance. The critique is focused on the difficulties concerning how to recognize stakeholders adequately, and mainly how to deal with several numbers of
interests. In that sense, the critique presents a kind of corporate concern regarding the difficulties of acting in a responsible way because identifying stakeholders and their interests could be demanding and complicated.

According to J. Smith, this assertion would be true; however, he argues that “many stakeholder theorists have provided algorithms for trade-off among stakeholders” (Smith 2003:86). Several groups of methodologies and practical tools have been developed to improve how corporations can recognize stakeholders’ interests. Indeed, E. Freeman in his book “Strategic management: A Stakeholder Approach” (1984a) argues that the stakeholders’ approach needs processes and techniques to enhance the strategic management capability of the organization. Indeed, Freeman proposes in his book a pragmatic frame to manage corporate relationships with stakeholders supported in this idea. Then, to recognize and to identify social interests is a complex concern, but not an impossible aim.

Mining companies have sometimes considered the opposite point of the Stakeholder Theory when they engage with local communities. In the case of the profit-based responsibility of business, mining operations might argue that some impacts are allowed by law. For instance, the legal framework can allow mining corporations to do some activities that might generate negative environmental impacts or might produce negative social changes like the loss of land in local communities. Corporations could argue that they are obeying the law. However, these kinds of actions are considered to be reprehensible for society due to the negative impacts that could be generated. In addition, this situation can generate a climate of mistrust against mining.

On the other hand, mining corporations can argue that there exist several groups of populations surrounding their operations that they cannot identify adequately. Moreover, based on that reason, corporations can argue that it is difficult to fulfill many of their social interests. However, from a pragmatic approach, several methodologies can help corporations to identify groups referred to as “local communities”. In that sense, corporations can identify those who are possibly impacted by their operations and what kind of expectations they have. Moreover, as part of this work of identification, corporations should not confuse controversial social demands with what is required as significant for the social well-being (De George, 1999; quoted in Fisher, 2004: 396). Hence, corporations can identify who is the local community and the most important interests that they seek to fulfill to improve the
social well-being and their interaction with local communities, as well as not damaging the local livelihood.

### 3.1.3 Development of the Relationship with Stakeholder

The way corporations can consider social expectations is by taking into account a group of those possibly affected by their operations as well as their interests. To do that, corporations seek to establish dialogue with a wide spectrum of stakeholders (Garriga & Melé, 2004). According to Morsing and Schultz:

“(...). Stakeholder Theory has developed a focus on the importance of engaging stakeholders in long-term value creation (Andriof et al. 2002). This is a process whose perspective focuses on developing a long-term mutual relationship rather than simply focusing on immediate profit. This does not imply that profit and economic survival are unimportant, but the process argument is that in order to profit and survive companies need to engage frequently with a variety of stakeholders upon whom dependence (2006:324-325).”

Different relationships represent the interaction between corporations and their stakeholders. These relationships should focus on a relational, mutually engaging and interactive view to create the groundwork for accountability (Andriof et. al. quoted in Morsing and Schultz, 2006: 324). Doing that necessitates that corporations “must have a process for identifying and ordering the myriad of claims on and stakes in its business and taking theses interests into account in decision making and operations” (McAlister, 2005:53). As a complement to developing relationships with stakeholders and because they need to find a balance between competing stakeholders’ concerns and claims, it is necessary that corporations have the willingness to acknowledge and openly address potential conflicts.

However, why should mining corporations especially consider their relationship with local communities? Because corporations have enough power to generate different kind of impacts on local communities that could change the way they have to live. For instance, the local community expects that if a corporation needs to work to be profitable, then its work should not generate negative impacts.
that affect its livelihood drastically. On the other hand, companies may play a major role in community development. Corporations can bring jobs to the community, interact with other businesses, and make contributions to local health, among other responsibilities. As a result, corporations can generate positive and negative impacts on local communities, and they need to identify how to act to enforce their relationship with them.

In that sense, dialogue with stakeholders represents the foundation on which corporations can base decisions and actions, as well as the co-creation of shared understanding by companies and stakeholders. If CSR is based on the stakeholders’ expectations, then CSR needs dialogue with stakeholders for its improvement. The questions are why and how the dialogue with stakeholders can improve CSR.

### 3.2. Ongoing CSR as the Result of Dialogue with Stakeholders: A Habermasian Approach

In this section I present Jürgen Habermas’ conception of dialogue. My aim here is to develop an argument based on Habermas’ position regarding how to improve mining CSR’s framework through dialogue with local communities. The reflections of Jürgen Habermas’ Discourse Ethics Theory can facilitate me to find the answer. I will follow Habermas’ Discourse Ethics Theory for two reasons mainly: the theory allows us to increase our understanding of why corporations ought to interact with stakeholders with a normative approach; and the theory allows us to comprehend CSR and the engagement with stakeholders based on dialogue.\(^{26}\) Then, by demonstrating that, it will further allow me to apply the argument to comprehend the success of Tintaya’s case and to improve the relationship between mining corporations and local host communities in Peru.

CSR is a normative framework which guides the way corporations ought to interact with stakeholders. Furthermore, CSR represents the way in which corporations ought to take social expectations into account in this social interaction. In that sense, CSR framework would be acceptable to guide the relationship between corporations and stakeholders if:

\(^{26}\) Habermas’ Discourse Ethics Theory would be not only a theoretical foundation but also a normative approach for the development of CSR.
• Stakeholders perceive that their social expectations are considered in the discussion and elaboration of CSR framework.
• Corporations consider social expectations as part of the discussion and elaboration of their CSR framework to guide their performance with society.

In the case of mining, CSR would be acceptable as noteworthy and significant to guide the interaction between mining companies and the local communities if it implies what local communities consider as significant for their relationship with mining.

The way this relationship should be carried out is through dialogue. As a consequence, mining relationships with local communities would improve in the long-term. However, what does dialogue mean? What are the conditions of the dialogue?

Habermas attempts to continue Kant’s work concerning the practical aspect: how one ought to act. He seeks to propose an ethical theory based on norms and principles that support human actions. To do that he suggests the idea of a normative framework that may support how human beings ought to act. Habermas argues that these norms would be the foundation and motivation of the action. In other words, as part of human interaction, the norms that rule the way in which people ought to behave are based on a framework that everybody could accept. However, these norms require two conditions: norms should be based mainly on a rational discourse among people; and norms should be accepted by people before ruling their behavior. Then, how does Habermas support the idea of rational discourse? And, how can these norms be accepted by people?

According to Habermas, action norms are the result of an ideal speech situation among people. In this ideal speech situation, people discuss norms that should rule their actions. In addition, participants should share the reasons that support why these norms should guide their behavior. The result of this discussion is that people will agree regarding consensual norms that guide how they ought to act because they were part of the discussion of their elaboration. Furthermore, action norms are considered to be valid for participants in the discussion to guide their interaction.

27 According to Habermas (2000) all normative ethics have to be able to give a principle that basically allows a rationally motivated agreement to be reached when the discussion takes place about practical-moral questions.
This *ideal speech situation* is called dialogue or rational argumentation. The participants in dialogue as rational beings\(^{28}\) have communicative competences to discuss among them. These competences are more than just basic skills of a particular language or vocabulary. They mean a kind of disposal of speakers by virtue of their mastery to be part of the *ideal speech situation* by argumentation. Put in other words, speakers can not only discuss through argumentation, but have the willingness to discuss as well. In dialogue, participants have the disposition to talk, assert, defend, show, question and understand arguments and normative claims that support positions and points of view. Then, participants understand and share the significance of the matter that is in discussion because they have the capacity to do it.

Argumentation is the tool in which parties involved in dialogue set out to use reasons to convince each other. In that sense, dialogue based on argumentation means that participants should not manipulate, but convince and persuade between them by reasoning. Although participants are able to present reasons, they are motivated to do so by the desire to reach a consensus. In that sense, consensus is not only the result of dialogue, but also the motivation of it. However, to achieve the consensus, each participant should consider the common interest, and not particular interests (Habermas, 1990; 2000). Hence, a rational discussion or dialogue is a communicative process among people who can discuss and reach a consensus by persuasion among them, based on the ability to elaborate arguments that justify positions.

According to B. Endress, this kind of dialogue presents the following participative conditions (1996):

1. Participants avoid contradicting themselves and make use of the meaning of expressions consistently: i.e. *Participants are able to and should present reasons.*
2. Participants in the argument step back from their personal viewpoint and consider the pertinent issue critically: i.e. *Participants must take an objective position to present reasons.*
3. The political context of argumentation requires that participants enter freely, with a genuine sense of equality: i.e. *Participants participate voluntarily and with a sense of equality.*

\(^{28}\) According to Habermas (2000), a rational being is a human being.
Participants in dialogue not only are able to present reasons, but they should do it from a hypothetical or objective position. Moreover, participants can discuss among them without personal restrictions because all participants have the same conditions to participate. Habermas defines this situation as the representation of a peer community. Then, two questions arise: what does it mean to take a hypothetical position? And, what is Habermas’ idea of a peer community?

Habermas understands a hypothetical position according to Lawrence Kohlberg’s stages of moral development (Habermas, 1990; 2000). L. Kohlberg’s third stage of moral development (Post-conventional) implies that moral reasoning is based on abstract, universal principles. In this stage, everyone is able to go beyond personal needs (Pre-conventional stage) and societal norms (Conventional stage) to think about moral problems abstractly -i.e. to take a position that is potentially universal (for everybody). Put in other words, participants in a moral understanding must stand for logical rules, considering social norms and their own way of life hypothetically, i.e. they take a de-centering position.

With this attitude, one’s beliefs about objects, social relationships, and private knowledge can be suspended to the point of view that one can consider reasoning about the norm that is at issue. Moreover, from a de-centering position, one can assume the position of other participants hypothetically. In that sense, Habermas argues that all participants in rational dialogue are able to assume the point of view of everyone else affected by the norm -even despite socio-cultural differences- from a de-centering or hypothetical position (Habermas, 2000).

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29 According to L. Kohlberg, we can comprehend moral development in the way one person argues moral positions. In this sense, argumentation may enforce the understanding of the moral action. Kohlberg considers three levels of moral development. Each level represents the basis to which one person can explain his/her moral action. In the first stage (Pre-conventional), people elaborate arguments according to the fear of punishment or to get a prize for acting. In the second stage (Conventional), reasons are elaborated from social and legal rules, and norms that we should follow to justify an action as moral. Thus, in both cases, moral action may be supported according to these kinds of reasons. However, in the third stage (Post-conventional), people argue from an objective position, taking account values, principles, that should be universal. In this stage, people justify their actions from principles that everybody can understand and share, and not from personal interests or from norms that could be criticized.
On the other hand, Habermas considers a peer community as an ideal rational community in which all their members are equals. All participants are considered equals because they have the same opportunities to participate in dialogue and they have the right to be treated with respect. However, it is significant that the role of participants in dialogue should be voluntary as well. That means that participants have the willingness and disposition to participate in the elaboration of norms that could rule their behavior. As a result, all participants will accept the norms discussed as significant for their interaction because they were part of the discussion of their elaboration under the same conditions. Two ideas arise of this explanation:

- The norm is the result of the consensus, which must represent the result of discussion among persons that have equal conditions and opportunities to participate in it.
- To follow and accept action norms as valid, participants in the dialogue must recognize that norms were made for them and not against them.

The final action norm should not only be the result of consensus but should also represent the mutual understanding of all participants in the discussion. In that sense, action norms represent the interests of the whole group—a generalizable interest. Then, an action norm would be valid and universal if it represents the common or generalizable interests of all potentially affected by that norm. In addition, it would be acceptable if it is based on an argumentative discussion of its elaboration. Following Habermas’ work, D. Reed (1999) argues that valid norms have two attributes:

- Attribute 1: Valid action norms are elaborated as the result of a rational consensus from dialogue in which all affected by them are able to participate.
- Attribute 2: Since such discourses involve necessary interpretations of the participants and can only be resolved in the basis of consensus, any valid action norm must represent a generalizable interest.

Action norms should be accepted as valid because they have the approval in a practical and rational discourse of all the participants that could be affected by them, and they represent the common interests

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30 According to Habermas (2004) equality supposes parity among people where the authority of the (better) argument can prevail. It is followed, consequently, by a process of mutual illustration between the citizens, where all the coercive mediations are absent: only the persuasion lasts.
of all participants (Habermas, 1990; 1996). Furthermore, according to Habermas, this rational discourse or dialogue needs a special condition or principle underlying the communication between participants. The formulation of this normative condition is named “Principle of Discourse Ethics”:

**Principle of Discourse Ethics:** “Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses.” (Habermas, 1996: 204)

To summarize, Habermas argues that an action norm will be valid for a whole community or group of people if it is established as a consequence of a rational discussion or dialogue among them. In the dialogue, people that might be affected by an action norm should participate in the discussion and elaboration of action norms and they should understand and share the reasons supporting them as well. Furthermore, norms are the result of the consensus and they must represent a generalizable interest and a mutual understanding from all participants. Hence, dialogue represents the way people can agree about how they ought to (inter)act.

Nevertheless, the real situation -the real dialogue- in society does not indicate such an ideal speech situation. However, the understanding of this “ideal situation of dialogue” is the point of departure regarding something that still does not exist but that is perceived to be the unique thing that it makes a better interaction among people possible. Then, how can we apply Habermas’ approach to improve the relationship between corporations and stakeholders?

As I mentioned before, if CSR guides how corporations must consider social expectations, then good relationships with stakeholders represent how corporations guide their interaction with society through the consideration of social expectation in CSR elaboration. In that sense, if local communities are affected by mining operations and they for example do not want to be impacted negatively by the operation, it would be necessary that companies must take into account this expectation to identify how they ought to responsibly manage their performance. To do that, dialogue with local communities is necessary.

The role of dialogue in the stakeholder relationship means that all who are possibly affected by CSR can participate in the discussion of its elaboration. Then, to accept CSR as valid or significant to guide corporate interaction with society, social expectations should not only be considered in the discussion
of its elaboration, but it should be based on dialogue with stakeholders. In that sense, mining CSR would be *valid* to guide the relationship between mining and local communities if it is established as a consequence of dialogue with local communities and if it seeks to achieve a responsible performance in the relationship with them. However, this dialogue must be based on certain conditions.

Following Habermas’ approach, participants in the elaboration of CSR ought to motivate their participation on the willingness to discuss. In that sense, to reach a consensual CSR, stakeholders and corporations as participants in its elaboration should have the disposition to dialogue.

In addition, participants should motivate their interaction by the idea of talking to reach a consensual CSR and to share a mutual understanding regarding how they ought to guide their interaction. In that sense, CSR would be the representation of a *generalizable* interest. CSR as a *generalizable* interest means that it represents a balance between the social expectations of stakeholders—for instance, the local community—, what is important for mining corporations, and the assumption that the frame will guide how corporations *ought to act* in the relationship with stakeholders. In that sense, the result of a discussion between corporations and their stakeholders that looks for a *generalizable* or common interest should be CSR.

Stakeholders and corporations ought to discuss to reach a consensual CSR by reasons that support their positions. As rational beings, participants in elaboration of CSR must show arguments that support their points of view. Due to all participants in CSR having the same ability to show arguments, CSR should be the result of argumentation and persuasion to reach a consensual framework. Additionally, participants seek to assume a *de-centering* position from present reasons and can assume the point of view of the other participants as well.

Let me assume that a mining corporation needs to move a mountain to exploit the mineral, and local communities that live near the mountain do not want to lose their lands. In this case, both parties ought to agree regarding how mining ought to act to not negatively affect the livelihood of the rural communities. To do that, in the relationship between this mining company and the local communities possibly affected by mining operations, both parties should have the disposition to dialogue as well as a desire to show good reasons for justifying their expectations. At the same time, corporations and stakeholders should seek to find a balance among their different interests to achieve a possible
consensus that supports their interaction -i.e. parties involved in dialogue ought to find what they consider to be a common interest. For instance, some issues in this dialogue process could be that the corporation considers local communities’ interests as significant at the moment of making decisions, or find an idea that guides and strengthens the relationship between the company and the communities despite the possibility to move off of their land, among others. Hence, CSR must show mutual understanding regarding how corporations *ought to act* considering social expectations in their performance as well as the assumption of their responsibilities. As a result, local communities can perceive that CSR was made with them and not against them.

On the other hand, the idea of *peer community* allows us to understand that those possibly affected by action norms can participate in their elaboration because they have equal conditions to participate. However, as in the idea of the *ideal speech situation*, the idea of *peer community* is another point of departure regarding something that *still* does not exist but that is perceived to be the distinctive thing which it makes possible a better interaction among people. In that sense, the ideal of peer community means the principle of mutual respect in stakeholder relationships. Then, the perception that corporations and stakeholders can participate freely and with a sense of equality in CSR elaboration means that both parties participate based on mutual respect.

In that sense, dialogue with stakeholders is not manipulation or giving information only. Several old practices of corporate engagement with stakeholders understood the participation of communities to be a one-way communication process. In this process, stakeholders are influenced and managed by corporations. Moreover, CSR is decided by management. On the contrary, dialogue with stakeholders means mutual engagement and mutual understanding. In that sense, CSR is co-constructed among corporations and their stakeholders. It is a constant process of mutual learning and understanding between participants in dialogue (Morsing and Schultz, 2006). In that sense, stakeholders are treated not as means to an end, but as a group that should participate in the decisions that could affect them.

On the other hand, one of the foundations of CSR based on dialogue is to build strong relationships with stakeholders. This represents the involvement of stakeholders in decision-making and the acceptance of periodical negotiations with them (Morsing and Schultz, 2006). According to Morsing and Schutlz (2006) companies should not only influence but also seek to be influenced by stakeholders,
and therefore change in the long-term when necessary. Then, local communities can influence in the way in which corporations *ought to act* and they can influence the norms and policies of CSR.

The improvement of CSR and stakeholder relationships can be based on dialogue. Still, one might ask from a pragmatic perspective, how to talk reasonably with people from different cultures, languages and social skills. In the mining relationship with stakeholders, corporations should identify their different responsibilities and should identify the local communities surrounding their operations. If mining corporations can identify different stakeholders, they can realize that local communities have particular features. As a matter of fact, most of the local communities are culturally and socially different from people that work in mining operations. However, in the work of the stakeholders’ identification, corporations must take into account that the groups possible to identify are different. For instance, local communities have their own cultures and language, they could be rural farmers or indigenous people, and they could have a particular social fabric and values that are different from people that work in mining. In that sense, such differences in the relationship between mining and local communities must be considered at the time of entering into dialogue. For this reason, the cultural differences, although they exist and that they must be considered at the time of talking, do not stop the possibility of reaching agreements.

Moreover, although I argued that for dialogue disposition is necessary in order to talk and to reach consensus, one can assume that parties involved have their own particular interests as their real motivation. In the interaction between corporations and local communities it is possible to find, for instance, economic interests that guide the intention of the discussion as well as a behavior guided by the common well-being. In that sense, economic interests and social expectations will be present in dialogue. However, dialogue should involve not only talking, but also hearing arguments as well as seeking to understand the real motivation of participants in the discussion. Participants should recognize the existence of different interests, points of view and intentions that could be part of the discussion and seek to find a balance between them.

To summarize, CSR as the result of dialogue with stakeholders is not an *ideal speech situation*, but it is the way in which corporations can improve the manner in which they *ought to interact* with society. As an ideal, this speech situation represents the possibility of a better understanding that Habermas argues to develop his theory. The fact that this situation is an ideal does not mean that the ideas of mutual
understanding and pragmatic consensus are not possible. On the contrary, it represents that human beings can discuss among them and as a result they can achieve consensus through dialogue. The purpose in CSR is to achieve mutual understanding regarding how corporations *ought to guide* their relationships with society based on consensual agreements. As a result, ongoing CSR represents interacting with stakeholders based on dialogue. In this process, dialogue means the involvement of all who are possibly affected by CSR –among them, local communities- in its elaboration or discussion and the disposition to talk, to achieve consensual frames that guide their interaction.
Chapter 4 Ongoing CSR in Tintaya’s Case through Dialogue with Local communities

Tintaya’s Dialogue Table was not strictly based on Habermas’ ideas of dialogue. However, in its success it is possible to find how the meaning of dialogue -according to Habermas- was present in the process. In that sense, in Tintaya’s case the role of dialogue means that all who were possibly affected by BHPB CSR - mainly the local communities- could participate in the discussion of its re-elaboration. Then, to accept BHPB CSR as valid or significant to guide corporate interaction with local communities of Espinar, not only social expectations were considered in the discussion of its elaboration, but it was based on the disposition of dialogue and mutual respect between parties involved in the dialogue process.

BHPB Tintaya and the local communities discussed how the relationship between them ought to be. The present chapter seeks to apply the theoretical framework previously presented in Tintaya’s case to identify three issues: (1) how the features of the Dialogue Table included a consideration of dialogue as grounds to rule stakeholder relationships; (2) how the principles of the process were based on dialogue as well as supported it, mainly in Phase 1; (3) how the consequences of the Dialogue Table –i.e. the success of the process- were generated by this particular kind of communication process.

4.1 Aspects of Dialogue in Tintaya’s Case

Before the beginning of the process, the climate of mistrust against mining did not allow BHPB Tintaya and its host local communities to interact adequately in Espinar. Furthermore, the performance of BHPB Tintaya with local communities was one of the reasons for this climate of mistrust because it negatively affected the communities’ livelihood. As a result, BHPB Tintaya’s CSR was considered as useless and unacceptable for local communities when the company sought to guide and justify its performance with it (See sub section 2.2.1).

In that kind of climate, the Dialogue Table was an opportunity to improve the relationship between BHPB Tintaya and its host local stakeholders. After 8 years of working, not only has Tintaya’s Dialogue Table been the most important space where the company and the local communities are
interacting, but is has been considered a success in corporate relationships with local communities as well.

The process is considered as successful mainly due to the fact that BHPB Tintaya and local communities not only achieved the goal of building trust between them and performing some actions to overcome social problems, but also because their relationship was strengthened. In that sense, it is important to understand what facilitated the success.

As one of the main purposes of the dialogue process, parties involved had the disposition to participate in it and the disposition to dialogue to solve their problems. Although the beginning of the Dialogue Table was a proposal of the Ombudsman from Oxfam Community Aid Abroad of Australia, parties involved (See sub-section 2.2.1) had the disposition to participate voluntary in it to overcome social problems generated by the mining operations, as well as to strengthen their relationship. As a consequence of that, the way BHPB Tintaya was interacting with local communities and the way mining was done were revised by participants in the process. Then, the disposition to dialogue and the disposition to participate meant the disposition to change the way BHPB Tintaya had been doing mining and interacting with society.

Regarding the disposition to dialogue, it was important that BHPB Tintaya and local communities participate in conditions of freedom and equality. In that sense, all participants in the dialogue process had equal conditions to participate, based on the opportunity to achieve a better relationship between them. Furthermore, it was important that participants perceive that all of them could participate freely and with a sense of equality and mutual respect. However, as I mentioned in sub-section 2.2.1, the climate of mistrust against mining and an arrogant and discriminatory treatment against rural people by mining workers did not allow participative spaces before the dialogue process. Moreover, the interaction between mining workers and local farmers was arrogant and based on mistrust for years. Due to the disposal to dialogue, the Dialogue Table was a process where both parties learned how to improve their interaction by mutual respect as listeners and speakers. As a result of this condition of the Dialogue Table, BHPB Tintaya and local host communities changed the way they had been interacting for years and could build trust between them as well.
BHPB Tintaya and the local communities discussed how the company was interacting with communities as well as why this kind of performance negatively affected their livelihood. Both parties discussed the loss of land, questionable land purchases, and the pollution of the environment generated by mining operations, among other claims and grievances (See sub-section 2.2.1). The main purpose was to find the better way to overcome these problems. As a result of this debate, parties involved started to discuss how mining ought to interact with local communities to change from a questionable way to do mining to a more responsible one based on social expectations. Put in other words, they were discussing BHPB Tintaya’s social responsibilities and regarding how to achieve a better way to fulfill social expectations. As a consequence, BHPB Tintaya improved the way it had to identify its ethical responsibilities (according to Carroll’s model) and the social expectations of stakeholders, mainly local communities.

Additionally, the Dialogue Table considered as part of the debate the common interest of all who were possibly affected by mining operations. To achieve the generalizable interests of the company and the local communities, not only were parties involved in taking social expectations into account, but BHPB Tintaya was seeking to balance the different claims and expectations of the local communities with their own interests. Then, BHPB Tintaya CSR sought to represent a balance between the social expectations of local community, what is important for mining corporations, and the assumption that the frame will guide how the company ought to act in the relationship with stakeholders and be profitable. The purpose was to achieve a consensual agreement regarding how to improve the way BHPB Tintaya was interacting with Espinar’s society. The effect was a proposal regarding how the company ought to act by consensus and mutual understanding with local communities. For instance, in the beginning of sub-section 2.2.2, some agreements and activities that I mentioned were the result of a new manner to consider social expectations of the communities in the performance of BHPB Tintaya.

In the dialogue process, participants had the same opportunity to assert and defend factual and normative claims in equal conditions. In that sense, the core idea of the process was to present reasons that explain and justify proposals on both sides. However, some social and cultural differences and the climate of mistrust complicated the mutual understanding at the beginning of the process. To build a communicative bridge between BHPB Tintaya and the local communities, at the beginning of the process –mainly in Phase 1- it was necessary that a facilitator helped both parties to understand each other. The facilitator was not an involved party. His/her work was to facilitate parties to achieve
objective reasons that justify their positions as well as to reach consensual agreements regarding the disposition to dialogue. As a result, both parties could understand that dialogue was necessary to achieve agreements based on mutual understanding by argumentation.

The Dialogue Table was a negotiate process as well. Local communities had social expectations, claims and grievances regarding how mining was negatively affecting their livelihood. The possibility for BHPB Tintaya to recognize these issues required a constant discussion between the representatives of both parties. Dialogue facilitated the possibility to negotiate in equal conditions between a mining company and rural local communities. In addition, parties discussed between themselves and persuaded each other to understand why some kind of actions negatively affected social well-being, as well as to understand the importance of the assumption of social responsibilities. As a result, not only were some problems overcome, but also CSR policies were influenced by the agreements of the negotiation. 31

Finally, dialogue allowed for the understanding that corporate social responsibilities go beyond the economic and legal framework. The way mining was done in Espinar was supported by profitable targets and facilitated by the legal framework which generated favorable conditions for mining—for instance, land acquisition. However, this way to do mining was questioned mainly because it did not fulfill social expectations, generated a climate of mistrust in the province and affected farmers’ property rights. By dialogue with the local communities, BHPB Tintaya learned to identify how to achieve a responsible performance. Then a new way to interact based on a new CSR frame improved the relationship between the mining company and the local communities of Espinar.

31 For instance, BHPB Tintaya signed a Frame Agreement with the local government of Espinar to work for the development of the province and the rural communities. The company has also created the Social Foundation of Tintaya as a working space to overcome social problems of the local communities and propose development projects to them as well. Moreover, CSR framework now represents a consensual guide that the company and the local communities consider as a point of departure when they have to overcome daily problems.
4.2 Principles of Dialogue Table

Five principles supported the success of the Phase 1 of the process (see Sub-section 2.2.2). These principles laid a new foundation over which it was possible to elaborate and to understand BHPB Tintaya’s CSR as well as the work in the Dialogue Table. These principles are:

(1) All participants agree that dialogue is a builder of coexistence.
(2) All agreements should be the result of consensus and dialogue.
(3) All participants have the right to participate freely and without coercion of any kind in communicate spaces (for instance, the four Commissions).
(4) All participants have the right to equal treatment based on the recognition and mutual respect of all parties involved.
(5) All parties involved have to assume an accountable performance for their negative and positive impacts.

The principles were elaborated as part of a deliberation in Phase 1 and were the result of consensus. It is important to mention that the principles were influenced by the social expectations of local communities, the disposition to dialogue and the intention to find consensual agreements. Then, it was an agreement by cooperative work, the participation of stakeholders, and the consensus of all parties involved.

These five principles not only represent the frame that guided the interaction between the company and the local communities. They guided the discussion in the process and the work in the Commissions as well. For instance, if the discussion was regarding the improvement of action norms and how BHPB Tintaya and the local communities ought to interact, the principles were the foundations of how to improve their communication skills as well as their relationship.

The principles reshaped the way BHPB Tintaya defined its relationship with the local communities. They represent the frame that guided the interaction not only as part of the dialogue process, but the relationship between them as well. For instance, this frame allows the understanding of the settlements presented in sub-section 2.2.2: the provision of dialogue, the equal conditions treatment and the assumption of responsibility to represent the manner in which the Dialogue Table was done. Parties
involved considered the principles and the settlements as norms with which they sought to guide their behavior in the dialogue process, as well as in their mutual engagement. These action norms represent the basis on which BHPB Tintaya and the local communities improved their relationship.

Additionally, if these action norms represent the way corporations ought to interact with local communities, then participants were discussing how CSR ought to be as well. As a consequence, in the Dialogue Table, participants were not only discussing the better way to interact between them, but also to understand CSR in a new sense. Thereby, in this dialogue process, the five principles would be the groundwork over which BHPB Tintaya’s CSR was re-elaborated and re-interpreted.

4.1.3. Consequences of Dialogue Table

BHPB Tintaya poor ability to engage with local stakeholders impacted its CSR framework drastically. The social conflict between the mining company and the local communities generated several problems with mining in Espinar. Unfulfilled social expectations, environmental damages, inadequate considerations of the property rights of the local communities, as well as a lack of BHPB Tintaya’s capacity to handle social expectations and to manage environmental awareness were the main problems that weakened its relationship with local communities. After 8 years of continuous working, the Dialogue Table allowed the strengthening of the relationship of the mining company with its local host communities, as well as the overcoming of social problems (See sub-section 2.2.2 as well as the footnote number 31).

As I mentioned in section 2.2.2, the dialogue process had 3 phases. Phases 2 and 3 were possible because Phase 1 was successful. In that sense, the work in Commissions, the implementation of programs and recommendations, and the changes in the way to do mining needed trust and dialogue between BHPB Tintaya and the local communities to be achievable. Dialogue -as a tool to improve stakeholder relationships- encompasses different kinds of moments and situations where the mining company and the local communities interact. It represents the groundwork that allows mining corporations and local communities to achieve a different way to behave and interact.
Phases 2 and 3 represent the way in which BHPB Tintaya’s performance and its CSR framework changed based on social expectations through dialogue with local communities. Moreover, Phases 2 and 3 represent not only how CSR’s framework changed. They represent as well that CSR was confirmed as significant to guide the relationship with all who were possibly affected. In that sense, if CSR guides the interaction between a mining corporation and its local communities, the parties possibly affected by CSR should agree with the frame. In Tintaya’s case, dialogue represented not only the disposition to talking to find consensual solutions to social problems, but the possibility to base and balance CSR on social expectations, equality and the idea that CSR can be the result of consensus and mutual understanding as well.

In that sense, in the Dialogue Table, local communities were involved in the decision-making process of BHPB Tintaya. The mining company understood that the participation of local communities was necessary in the identification of a responsible performance. That means that local communities and the mining company were discussing how they ought to interact. As I mentioned before, the result of the consensus through dialogue represented a valid norm that those possibly affected by it can accept as significant to guide their interaction. In Tintaya’s case, BHPB Tintaya´ CSR was considered as valid to guide the relationship between the mining company and the local communities because it considered social expectations as a balance for coexistence, it was the result of consensus and mutual understanding, and it was elaborated with the participation of local communities in equal conditions. Plus, it is possible to say that BHPB Tintaya CSR and its corporate performance changed based on suggestions of the local communities in the long-term.

On the other hand, because this new CSR reshaped the relationship between BHPB Tintaya and the local communities, the frame changed the social situation in Espinar as well. The social conflict consisted of the mining company exposing the local communities to unreasonable environmental hazards, unfair land purchases, and arrogant treatment (See sub-section 2.2.1). To be part of a dialogue process based on the conditions previously explained represents the possibility not only to strengthen the relationship with stakeholders, but also to manage the social conflict and to build trust despite an existent climate against mining. As a matter of fact, the situation in Espinar changed as a consequence of the dialogue process.
Although social conflicts regarding mining operations are different in a sense, it is obvious that mining can overcome this social problem through dialogue with stakeholders affected by its operations. In that sense, mining corporations can improve their interaction with society through dialogue with local stakeholders. Different mining corporations are in constant interaction with local communities. Many social conflicts regarding mining operations are based on communicative problems, unfulfilled social concerns, a lack of social responsibilities, and an unequal treatment against rural population. The possibility to overcome social conflict and strengthen social relationships by mining corporations is a practical and a moral obligation guided by CSR. However, to have that dialogue does not only mean talking, but also having the disposition to dialogue, the motivation to talk based on the achievement of consensual CSR and mutual understanding considering the common interests, free and equal participation of all possible affected by the frame –i.e. stakeholders-, and the agreement that CSR is the way in which corporations ought to act in a responsible way. Hence, mining corporations can improve their relationships with stakeholders through dialogue to have a better performance.
Chapter 5 Summary and Conclusions

The subject of this thesis has been to examine how mining companies can develop CSR norms and policies through dialogue with their local host communities. In this particular case the study focused on the relationship between CSR and the Peruvian mining industry using the Tintaya case as an example. This case is a successful dialogue process between a mining company and its local host communities. The success of the dialogue was discussed from the standpoint of the ideas presented in Habermas' Discourse Ethics Theory, mainly the Principle of Discourse Ethics (D). “Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourse.”

I started with the presentation of the features of Tintaya’s case as part of the Peruvian context where mining has been done the last 15 years. In that sense, mining has represented a big impact in Peruvian macroeconomic growth, but not necessarily in the micro- or local level. This impact has shown that mining has enough power to affect the well-being of local host communities as well as their local environment. On the local level, the impacts of mining have constituted the way mining business elites have managed mining operations. The way mining was done by BHPB Tintaya is part of this context. Additionally, the context allowed a questionable way to do mining to take place, such as in the case of BHPB Tintaya’s performance. As a result, a climate of mistrust and several environmental claims and social grievances were generated where the mine is located.

Tintaya’s case represents a unique case in a climate of mistrust in the Peruvian mining context. Within it, BHPB Tintaya and the local communities were able to overcome social problems generated by mining operation through dialogue. In that sense, the dialogue process was defined by all parties involved as a voluntary cooperative process. Furthermore, members of the local communities participated in the process on the conditions of freedom and equality. As a result of the local communities’ participation BHPB Tintaya CSR’s framework was influenced by their social expectations and therefore the framework changed. This re-elaborated CSR framework reshaped the way BHPB Tintaya defined its relationship with rural communities. In addition, BHPB learned to handle and face impacts generated by its activity and to understand the communities’ expectations and

32 For instance, D. Reed states that “[t]o more positive effects of employment generation and spin-off activities that mining activity provides, exists a variety of potential negative local economic impacts associated with it” (2002: 209).
grievances. The main reason for the success of the dialogue process in Tintaya’s case was that it was based on dialogue with local communities.

The following questions were asked to understand the success of the Tintaya’s case through dialogue: Why ought all possible affected by CSR to participate in its elaboration, mainly local communities? How can all possible affected by CSR participate in their elaboration? Is dialogue the way how local communities and mining corporations can improve their relationship? How can dialogue improve the relationship between corporations and local communities? How can dialogue with local communities improve corporate interaction with society?

To answer these questions, I focused the analysis on Edward Freeman’s approach regarding why corporations have social responsibilities and how corporations ought to engage with society, mainly with local communities. I continued the analysis considering Jürgen Habermas’ Discourse Ethics Theory and the idea of dialogue and valid action norms. I applied his work and ideas in relation to how dialogue with local communities can support an ongoing CSR’s framework. As a result, ongoing CSR represents the interaction with stakeholders based on dialogue, where dialogue means the involvement of all those possibly affected by CSR –among them, local communities- in its elaboration or discussion, the consensus and mutual understanding, a climate of free and equal participation of all those possibly affected by CSR, and mainly the disposition to dialogue.

Finally, I applied the theoretical framework to Tintaya’s case to comprehend how dialogue with local communities led to its success. Although Tintaya’s case was not strictly based on Habermas’ ideas, it is possible to discover how this particular case considered his proposal indirectly. The role of dialogue in the stakeholder relationship means that all who are possibly affected by CSR can participate in the discussion of its elaboration. Then, to accept BHPB CSR as valid or significant to guide corporate interaction with local communities, it was established as a consequence of dialogue with local communities and it seeks to achieve a responsible performance in the relationship with them. As a result of it, BHPB Tintaya’s CSR as well as its relationship with local communities were not only improved, but CSR was considered as valid to guide their interaction in the long-term.

I can therefore conclude from my assertions that dialogue with stakeholders based on the ideas of Habermas can improve CSR. Furthermore, dialogue represents a better understanding of the
relationship with stakeholders and the identification of social expectations in corporate performance. Plus, dialogue in the sense that I presented might help to improve mining relationships in Peru, due to the fact that it is a change in the way mining operations ought to interact with society.
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