

A Stake in Mining: Participatory Elements in Swedish Mine Development

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Abstract: In Sweden, the recent proliferation of mining exploration—due to mineral prices and government policy—offers the possibility for socio-economic development in the North. However, it also creates issues of permanent social and environmental change, spurring many to demand greater participation and input in the development process. In much of the theoretical literature on governance, the participatory elements hold major significance. Therefore, determining where and when the state holds influence over participation remains important for those interested in the impact of new governance arrangements on participation. This study looks at two cases in Sweden, Pajala and Kiruna, to assess whether the practices in these communities follow the legislation or if new actors assume these responsibilities. The findings raise additional questions regarding the role of the state and draw into question the importance of legislation with regard to participation. The paper is part of a special collection of brief discussion papers presented at the 2014 Walleye Seminar held in Northern Saskatchewan, which explored consultation and engagement with northern communities and stakeholders in resource development.

Introduction

For nearly a decade, the strength of mineral prices and the level of mineral extraction globally grew considerably, due primarily to the rise of the Chinese and Indian economies. As a result, the recent and sharp increase in mining exploration meant that new operations became a possibility in nearly any jurisdiction with mineral deposits, inciting new debate on the current emphasis on economic growth. These debates largely revolve around the risk of environmental degradation, social and cultural change, and local economic benefit with many concerned that state regulation fails

to adequately address these issues (Bridge, 2004). While the most serious detrimental effects of mining remain in countries with poor institutions, questions regarding the value of mining now dominate the discussions around new mines in developed countries.

Increased concern over the environmental performance of mining companies coupled with the acknowledgement that mining operations sometimes bear negative influence on the social-economic outcomes for nearby communities intensifies the level of scrutiny and the demand for new input into decision-making processes (McMahon and Remy, 2001). Inherently, the development of a mining project requires consideration of multiple interests: economic, environmental, property rights, land rights, labour, local business and workforce, Indigenous rights, etc. (Hall & McGinty, 1997). However, some interests receive greater attention than others, as formal and informal trade-offs determine the outcome. Many claim that while governments update the consultation processes to reflect a more deliberative approach, actors advocating for environmental and social issues remain marginalized. I attempt to offer one assessment of whether or not the industry reflects the demands for greater inclusion through mapping the governance structure of the mining industry in an established democracy.

As the focus of participation moves beyond electoral systems, which alone may be inadequate in gauging public opinion (Budge, 1996), interest grows regarding the activity at a more local level. However, unlike elections, the methods used to engage both the public and stakeholders in policy processes remain unstructured in comparison with input coming through both formal and informal processes. While it appears a straightforward goal to ensure those affected by the outcome of the policy process participate and deliberate upon it prior to the decision (Dryzek, 2001: 651), the execution takes many forms with the potential for different actors to take the lead. One policy area that includes these aspects is the mining industry. It requires the management of different interests and, therefore, provides an opportunity to explore participatory practices.

Assessing the influence and outcomes due to changes in governance presents challenges both theoretically and practically. Because new governance models often involve or depend on non-state actors, the success of processes requires satisfying these actors (Huntington, 1996; Friedman, 2000). As a result, studying the frameworks that determine how participation takes place in the decision-making process for outcomes becomes increasingly important.

Although not a major mining jurisdiction internationally, Sweden serves as a major iron producer within the European Union and boasts a mining

history that dates back over a century. Due to the price of iron futures, the expenditure on exploration skyrocketed over the past decade from just under 300 million SEK (45 million CAD) in 2005 to a high of just under 800 million SEK (120 million CAD) in 2011 (SGU, 2013). But, perhaps more importantly, resource development in Sweden requires management of a broad set of issues including, but not limited to, royalties and rents, environmental protection, Indigenous land rights and traditional economies, and rural socio-economic welfare. This reality of disparate interests, along with stable political institutions, makes Sweden a strong candidate for studying participation practices within the mining industry.

Given the increased pressure on mining projects to meet these criteria, assessing the avenues for participation serves as one method to determine, on one hand, how issues are raised and, on the other, how they are handled. Further, within the context of new governance arrangements and the increased demands for measures beyond legislation, determining what aspects of participation falls within the legislated processes is critical. Thus, this article aims to address this two-part question: What are the opportunities for participation in mine development processes, and to what extent do local participatory practices currently exist outside formal legislative processes?

The rest of the paper is laid out as follows. First, it reviews literature on governance and participation, honing in on areas relevant to the mining industry. Second, it introduces the cases and methodology used. Third, it describes and explains the findings on the participatory elements and assesses how legislation fits within the existing practices. Fourth, it discusses the implications for participation within mining development and policy in general, pointing to areas for future study.

Theory: New Stewards?

Due to both internal decisions and outside pressure, the state exercises a new role in the policy process following the strong shift during the Reagan and Thatcher years to shift services to private providers. The theoretical work on governance is well established, but is worth re-examining. One key aspect focuses on the state acting as a facilitator and monitor rather than as an active participant—allowing market and societal actors to take up these responsibilities (Rhodes, 2007; Pierre and Peters, 2005; Bodansky, 1999). This change in the nature of public policy-making and service delivery appears in various sectors such as education, health care, and environment, for example. Further, the combination of the democratic process and the competitive nature of a capitalist economy means that the character of governance systems exhibits significant increases in economic, social, and cultural

interdependence (Michalski et al., 2001: 15). With the dispersion of traditional hierarchical structure, the network requires greater interdependence and, because the roles and responsibilities of actors in a policy network become less defined, the intended outcomes require the participants to develop strategies regarding resource exchange (Rhodes 2007: 1247; Rhodes, 1995). The state still attempts to steer the network but, in some cases, no longer possesses the level of authority it previously held. But the intent of involving more actors in the process connects to the likelihood that the outcomes reflect a variety of interests. In theory, these new governance models go hand-in-hand with greater inclusivity and transparency (Risse, 2004; van Kersbergen and van Waarden, 2004)—key objectives in participatory processes.

In current mining industry practices, work on conducting economic viability and environmental impact studies falls upon the company to arrange. Therefore, while legislation may require some form of participation, such as public consultations, how to carry them out remains ambiguous and up to the company and/or the agent conducting the study to design them. Nevertheless, governments encourage a variety of stakeholders—non-governmental organizations, interests groups, and private citizens among others—to participate directly in the policy process to resolve and avoid conflict (Dukes, 1996) and to lower criticism and resistance (Ethridge, 1987). For countries interested in resource development, this requires finding a delicate balance between fostering investment while satisfying the concerns of the electorate.

A state that ignores public opinion runs the serious risk of incurring tremendous costs related to enforcement of policy and, importantly, failure to change the process in response to public opinion makes policy-making increasingly difficult in the future (Williams and Edy, 1999: 231). From a theoretical standpoint, many argue that greater inclusion results in responsiveness and transparency (Steffek, 2009) and, thus, helps resolve conflicting interests and produces outcomes that more stakeholders can agree upon (Dukes, 1996). Therefore, in this respect, the existence of participatory elements holds major significance. Governments interested in resource extraction must establish participatory frameworks not only to live up to political expectations but with revenue in mind.

When considering how to identify participation, this study looks to the formal and informal processes. Despite governance changes, regulation continues to play a major role in setting the parameters for mine development. The multi-stage process of mine development—from exploration to licensing—offers various opportunities to provide input with different state agencies as part of their respective decision-making processes. One

of the most common opportunities is public consultation in environmental impact assessment (EIA), which provides an avenue for direct input from non-traditional stakeholders. Nevertheless, these consultations required by the state no longer represent the full spectrum of dialogue between mining companies and the community, and other elements pertaining to participation warrant consideration. These informal consultation practices, often linked to corporate social responsibility (CSR), now appear to be nearly mandatory for any mining development. In response, the mining industry continues to develop new associations and strategies to help ensure those affected both understand the impacts and reach a level of acceptance that allows the mine to operate unimpeded. This concept is referred to as the “social license to operate” (SLO) and now sits firmly embedded in the international mining industry’s vernacular (Owen and Kemp, 2013). The SLO concept emerged out of a recognition that the public no longer accepted legislation as sufficient, and further work by the company was required to ensure “a mining project is seen as having a broad, ongoing approval and acceptance of society to conduct its activities” (Prno, 2013: 577).

Thus, two important factors require referencing: the push for expanded participation—in both inclusiveness and impact—and the reliance on non-state actors to carry out these participatory processes.

Cases and Methods

Mining the Swedish North: Pajala and Kiruna

Throughout most of the twentieth century, the Swedish Government restricted mining operations to domestic companies—the most prominent, a state-owned company, Luossavaara-Kiirunavaara Aktiebolag (LKAB). With the introduction of new mining legislation in 1991, the industry in Sweden underwent fundamental change as it opened to foreign companies. With the surge in mining across the globe, commensurate efforts to increase production in Sweden occurred and, as a result of the new legislation, foreign companies explored the possibility of mining in Sweden. These changes helped inform our case selections for this study: Pajala and Kiruna.

Located in Norrbotten County, next to the Finland border, the municipality of Pajala serves as home to 6,289 inhabitants. The region appeared to rebound when Northland Resources, a junior mining company initially based in Canada, indicated its interest in developing an iron mine in Kaunisvaara, just north of Pajala. Northland began operations in December 2012 at the Tapuli deposit and are currently developing the Sahavaara deposit. Production continues to ramp up today, but the company currently

(2014) faces capital issues, raising questions about future ownership and operations. Nevertheless, strong community support for the mine continues largely due to the efforts of Northland early in the planning process to create an open dialogue with those living in Pajala.

Also within Norrbotten County, Kiruna represents one of the oldest mining communities in Sweden with a population of 23,023; to a large extent, it demonstrates the strong relationship between the state-owned company and the municipality. Originally a surface mine over one-hundred years ago, LKAB now runs the underground mining operations at Kiruna. Along with the long-existing operations, LKAB appears intent on re-opening and developing new mines near the village of Svappavaara, roughly 45 km southeast of Kiruna. These ventures have met with mixed success as LKAB encountered some issues related to environmental impact. Nevertheless, the municipality remains largely in favour of mining operations due to the long history of mining in the area and the level of commitment shown by LKAB to positive employment and social outcomes for the local inhabitants.

Methodology

To achieve the goal of elucidating the opportunities for participation in mine developments in these cases, this study carried out two separate tasks. First, it reviewed legislation pertaining to the permitting process of mines. This document analysis drew out instances where participation or consultation served as a criterion for the continuation of the process but also sections that suggested or allowed input, despite not being a formal requirement. In combination, these legislative instructions constitute the formal processes prescribed by the state.

Second, in an effort to compare the legislation with actual practices, my colleague and I conducted face-to-face interviews with twenty-one individuals, some in group settings, between November 2013 and June 2014 in Luleå, Pajala, Kaunisvaara, Kiruna, and Svappavaara. The interviewees included company representatives, local residents, members of local environmental conservation organizations, and municipal administrators. The semi-structured interviews focused on participation as the overall theme, but honed in on questions regarding consultation, information sharing, and the “social license” concept. Interviews lasted between fifteen and ninety minutes.

The overview of the legislation, and information gleaned from the interviews, bring key elements of participation to light, but also serve as a basis for comparison. The following section first outlines the legislation and then highlights the main findings of the interviews.

Findings

Swedish Mining Legislation and Environmental Impact Assessments

In order to understand the role of consultations in the context of Swedish mining, it becomes important to examine the different stages of the permitting process through an analysis of the legislation, particularly focusing on the importance of the Environmental Code in relation to consultations.

Two main pieces of legislation govern the permitting process for new mines: the *Minerals Act* (1991: 45), which regulates the exploration and exploitation of deposits of “concession minerals,” and the *Environmental Code* (1998: 808), which applies to activity that is potentially harmful to the environment. Three types of permits are essential to the development of a new mine: *exploration* and, eventually, *exploitation concessions* (i.e., mining permits), which are issued by the Mining Inspectorate; and, finally, an *environmental permit* under the *Environmental Code*, which is issued by an Environmental Court. Before a mine moves into production, the company must secure both an exploitation concession and an environmental permit.

Before exploitation concessions and environmental permits are pursued, the exploration work requires an exploration permit from the Mining Inspectorate, in accordance with the *Minerals Act*, followed by a work plan. The work plan, submitted to affected landowners and stakeholders (i.e., land users), must contain a description of the planned work, a timetable, and an assessment of the anticipated impact on private rights and public interests. The recipients must submit any objections to the Mining Inspectorate within three weeks. This represents the first instance of information sharing from those intent on future extraction. Importantly, it also presents an opportunity for landowners and land users to submit their concerns to a government agency.

As a next step, the *Minerals Act*, chapter 4, s. 2, requires the submission of an EIA as part of the application for an exploitation concession from the Mining Inspectorate. The process determines the economic viability of the deposit, and ensures that safety standards are met. It also identifies any competing land uses in the affected area. The Mining Inspectorate considers if the proposed mining project complies with the Environmental Code, which regulates the management of land and water areas.

The Mining Inspectorate then *recommends* that the EIA process initiates stakeholder consultation (according to the Geological Survey of Sweden, SGU, 2013), but as noted by GeoRange (2011), there are no formal requirements for such consultation at this stage unless the proposed mine is situated in a reindeer herding area, in which case the impact must be assessed. The

SGU emphasizes that while no legal requirements to conduct stakeholder consultation for an exploitation concession exist, establishing good dialogue with relevant stakeholders is a factor of success in getting a mining permit.

Once an exploitation concession is granted, the company can exploit the mineral deposit. However, the company still requires an environmental permit from the Environmental Court, in accordance with chapter 9 of the Environmental Code, which defines environmentally hazardous activities. Mining projects typically also require compliance with chapter 11, which contains provisions relating to water operations.

The Environmental Code, chapter 6, s. 4, requires anyone who intends to apply for an environmental permit to conduct stakeholder consultations with the county administrative board, and with private individuals who are likely to be affected, before preparing an environmental impact statement. Specifically, the consultation “shall relate to the location, scope, design and environmental impact of the activity or measure and the content and structure of the environmental impact statement” (Ds, 2000: 61). As noted by GeoRange (2011), the EIA process for mining can be viewed as a two-stage process, as the EIA required to obtain an exploitation concession is different from the EIA that is necessary to obtain an environmental permit. Furthermore, GeoRange emphasizes that while the Swedish EIA process traditionally has focused on the biophysical aspects of the environment, the Environmental Code provides for a wide definition of the environment, including socio-economic as well as cultural aspects. Although Social Impact Assessments (SIAs) are not required by law, they are beginning to emerge as part of the EIA process for natural resource projects in Sweden during recent years, in particular for projects that affect reindeer husbandry and Sami communities. GeoRange recommends that while SIA work benefits from close coordination with the EIA work, any documents related to an SIA should be separate from those relating to a traditional EIA, to facilitate the assessments from authorities and other stakeholders.

In the legislation, achieving compliance with the Environmental Code requires the greatest level of participation on different issues— from environmental to social to economic. However, the content of these consultations remains vague. The interviews we conducted helped our understanding of how communication occurred and what topics were discussed.

Formal Consultations or Relationship Building?

The general sentiment gleaned from the interviews we conducted was a significant level of trust between the communities and the mining companies. In both cases, the companies engaged in additional, albeit very different, activities to ensure the relationship with the municipality and its residents remained positive. Most importantly, however, none of the interviewees referred to the EIA or Environmental Code when speaking about their opportunities to raise concerns about the mining company or their ability to influence decision making.

In Pajala, much of the trust established between the community and Northland Resources emanates from the significant work done by company owners and executives early in the process. Early on in the exploration processes, the original owners of the company visited the town in order to understand the community and its interests; this was confirmed by both the local residents and the company. According to a communications representative from the company, as the project moved forward, they booked the town hall in Kaunisvaara every week during the development process and made their representative available to answer any questions. While these meetings were not utilized every time, Northland wanted to indicate its seriousness about communication with the community. This helped establish a very personal relationship between this manager and residents of the municipality, to the extent that the individual communicates with locals through text messages. When asked about the relevance of international standards or practices related to CSR or SLO, the Northland representative stated that referencing these was important for investors but not as critical when engaged with the community. This work focused on ensuring people feel safe and informed, not surprised, when they read information about the mine in the newspaper. With the head offices located in Luleå, one of the strategies for the company was ensuring they made themselves available to those affected by the mine: "If I want to meet with a Sami village, why should I take up their time and ask them to come to us? I should drive to them."

The municipal officials from Pajala stated that through their work they received good information from Northland, although one made the point that communications efforts slowed down after production started. However, they viewed the company as trustworthy and that it has been embraced by the community. The responses from residents, including the Sami village representative and the environmental conservation association member, largely echoed those of the officials. The Sami representative emphasized that Northland worked hard at establishing a respectful relationship and

dialogue early in the process, maintaining this dialogue throughout its operations. Other respondents indicated their skepticism about a mining project but, because Northland made an early effort to communicate, they became positive about the plans. Concerns that persisted and that required response largely focused on environmental degradation and matters relating to the local work force. For example, one interviewee asked Northland for more detailed information regarding discharge into the water system, and the individual was pleased with Northland's response.

As a well-established company, LKAB developed deep roots in the communities in which it operates, including serving as one of the major employers. Subsequently, many Kiruna residents associate the relationship with the positive social impacts of mining related to employment and economic development. LKAB also made the decision to establish permanent information centres to provide answers to any concerns from the general public. The company representative emphasized the importance of sustainability with respect to their relationship with communities. One of the key reasons is that the company views the sustainability of the company as inextricably linked to the sustainability of the community. Therefore, they perceive most of the work they do in engaging residents as voluntary. The individual stated that while some of LKAB's activities are driven by legislation, what is "formally" required is not enough for them. The company informs the responsible authority that they have complied with the formal procedures, but their day-to-day activities consist of much more.

Among the responses from the local residents, several mentioned the information centres as a positive development, with information meetings held every second week to update the public on LKAB's current activities. One individual from Svappavaara stated that these information sessions were very well attended. Another resident of Svappavaara indicated the importance of the opportunity to ask the "higher ups" in the company questions directly. Several of the individuals made the point that the level of trust in the company, which was generally high, would not be the same for a foreign mining company. A representative from the nature conservation association made the point that communications with LKAB have declined over the past fifteen years, which particularly worried this individual because of the plans to expand mining operations in the area. The same interviewee also said that the information offices were "for tourists," but still believes that LKAB listens to local concerns. Representatives from one of the local Sami villages indicated their concern about mining in general, but were pleased the LKAB made more effort recently to listen to Sami people and that they get access to more information than the general public—the company and

the village were also involved in a joint project to develop a “guidebook” on co-operation between reindeer herding and mining companies.

Overall, the greatest source of apprehension towards the mine emanates from the Sami reindeer herding community. In both Kiruna and Pajala, the mining companies consulted with local herders before making planning decisions, helping ensure land use remains possible for all actors. Nevertheless, this requires herders to make some adjustments and, as a result, claim some form of compensation. The compensation takes the form of confidential legal agreements that lay out the terms of the relationship between the Sami community and the mining company. Notably, both parties emphasize the absence of direct financial compensation, but instead point to joint efforts to mitigate negative impacts on herding to ensure that it can persist. Although the herders interviewed seemed content with these agreements and the ongoing relationship, some reservations remained about the future and the effect of mining on herding.

Discussion

The findings in this study provide some answers to the research question, but raise others. The first half of the research question focuses on the opportunities for participation and, when considering the legislation, this appears fairly straightforward. However, the results of the interviews paint a different picture. Given the feedback from most residents, which reflects a general trust in both mining companies and an appreciation for the ongoing relationship, “opportunities for participation” may be misleading. In both cases, concerns and questions could be raised at any time, not just during the consultations in compliance with the EIA and Environmental Code. This indicates a shift in participatory practices—from organized, structured consultations to fostering a relationship. This may represent a recognition that social and environmental issues cannot be properly managed in one-time consultations. If those living in the affected communities or working in associated sectors gain more opportunities for input throughout the process, the result is better outcomes for all parties (Pröpper and Steenbeek, 1999; Kooiman, 1993). Instead, an ongoing communication is required as community needs change, if the company aspires to know, understand, and address these needs.

Moffat and Zhang (2014) find that the perceived contact quality and procedural fairness from the community members’ points of view play an important role in building trust with a mining company. In their study, they emphasized that trust was enhanced when community members felt heard and listened to, and when the company would act on their concerns. This

was precisely the experience we heard from our interviews, underscoring the efforts of the companies to go beyond the legislation.

It became evident from the interviews, as well as from the review of company documents, that social issues received significant attention from both LKAB and Northland Resources. They employed a variety of CSR-efforts, which signalled at least tacit aspirations to receive and maintain the communities' approval of their operations. Both companies had local information offices where they engaged the communities in face-to-face dialogue; they were involved in activities such as sponsoring sports teams, which also offers a marketing benefit; and, notably, LKAB funds schools in the region and research at Luleå University of Technology, which are viewed as an investment in the company's future, but also carry an important benefit to society.

The findings related to the second part of the research question, the extent of non-legislated consultations and agreements, appear to confirm some of the theoretical assumptions associated with governance (Rhodes, 2007). Although a strong legal framework exists in Sweden for environmental impact assessment consultations, the most frequently referenced interaction occurs almost entirely outside of it. Again, no one pointed to the EIA consultations as a critical juncture to provide input and influence the development of the mine. Instead, because the dialogue between the company and the community began early in the process, residents felt that they could provide input at any time and through extremely informal means. This raises the question of how resource development impacts should impact communities in the future, particularly if mining companies are unwilling to engage in the level of communication exemplified in these two cases.

For example, more recent exploration activities have been met with significantly more resistance, with many community members citing a lack of dialogue and community understanding as the primary source of tension. Therefore, important questions remain over what purpose legislation serves in these circumstances. If government is indeed interested in promoting mineral exploitation, more attention ought to be paid to when and how companies begin engaging the community. The state may look to place more legislative pressure on mining companies to start contact early and sustain contact throughout development and operations of a mine.

Conclusion

The relationship between governance and participation raises important questions regarding where state influence begins and end. While the

state still holds responsibility in balancing national interests against local interests, the existing research on governance suggests this is increasingly challenging—formal legislative processes still provide guidance, but other actors manage the day-to-day activity. With activities that hold long-term environmental and social consequences, such as mining, people living in affected communities no longer see current legislation as sufficient, and demand some type of input and influence over the outcomes.

As a result, companies are taking active measures to reduce the risk for costly conflicts (Moffat and Zhang, 2014), going above and beyond what (sometimes) weak regulations may require and thus reducing the potential social risks faced by international investors or customers. Again, this puts the state in an awkward position. Resource revenue remains critical for some jurisdictions, thus proactively facilitating strong participatory processes and healthy relationships between companies and communities is in the best interests of these states. Further research can examine other institutional settings, both strong and weak, to determine if informal company-community engagement can be effective elsewhere.

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