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with **Esther Thomas**

Governance for and against whom?

Business contributions to collective goods and bads in Sub-Saharan Africa

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1. Introduction

Research on private regulation in International Relations has made companies a key object of governance research.[1] Within much of this literature, as well as in political practice, companies are addressed as resourceful and effective governance actors who are potentially able to close governance gaps in areas of limited statehood. Voluntary codes of social and security responsibility are meant to make companies contribute to collective goods provision at local production sites in areas of limited statehood.[2]

Paradoxically, the governance literature points to the importance of a credible shadow of hierarchy for making such 'good governance' behaviour by firms likely (see Börzel 2010). In many cases in Africa, however, the state is not capable of stepping in when companies renege on their voluntary commitments, and mandatory state control is absent. Home states have also been reluctant to hold companies accountable for their behaviour in other countries. The literature on political economy and state business relations in resource-rich countries in Africa, Latin America and the Middle East argues that there is in fact a negative relationship between resource extraction and the quality and inclusiveness of domestic governance (Ross 1999, Moore 2004). Furthermore, literature on the anthropology of development (Ferguson 1990; Murray Li 2007), on the privatization of security (Daase/Friesendorf 2010; Leander 2007; Kempa/Singh 2008) and by others (e.g. Cammett and MacLean, 2011) points to the limitations and negative effects of non-state governance.

So far the business and governance literature does not distinguish different degrees of inclusiveness in governance contributions. It also largely ignores how supposedly 'doing good' may actually have serious negative side effects. Finally, it isolates contributions to the collective good from the scope of companies' negative externalities - that is, the negative effects of their private activities on collectivities. To come to a differentiated evaluation of companies' role in local governance, this paper argues that these 'dark sides' of corporate activities need to be brought back into business and governance research. Governance contributions by firms need to be put in perspective by distinguishing their different scopes and by comparing the negative side effects of such governance initiatives and the negative externalities of companies' private activities.

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[2] Governance is used in this paper as defined in the SFB 700 as the various institutionalized modes of social coordination to produce and implement collectively binding rules, or to provide collective goods (Framework proposal SFB 700 2009).

Asking "governance for whom?" and "(non)governance against whom?", this paper therefore introduces a conceptual framework for distinguishing different degrees of inclusiveness in local governance by companies and focuses on a variety of negative effects of company's (governance and non-governance) activities on collectivities in areas of limited statehood, in order to understand for whom companies govern and against whom (non)governance by a company is directed. To illustrate our analytical categories, we draw on our empirical work on multinational mining companies in Tanzania, South Africa, Guinea and the Democratic Republic of Congo (DRC), focusing on the nexus of security and development practices by firms. We then discuss how these different dimensions of inclusion and affectedness relate to each other in a single case study, asking what do we see with them which we would not have seen with a conventional compliance study (see also Hönke and Börzel fc)?

Why is this relevant for research on non-state actors in governance more generally? Non-state governance – whether in cooperation with the state or without the state – is territorially and functionally not congruent with state territories. It either occurs at the local, sub-national level, or extends states' jurisdictions, such as transnational regulation and initiatives. Non-state governance is also limited in the sense that it is often functionally specific; labour standards, environmental regimes or development programs do not deal with governance in other policy fields. Where non-state actors claim authority over several functional areas, this remains mostly restricted to geographically limited sub-national spaces or narrowly defined identity groups. 'Governance for whom' is an open empirical question for all these governance forms: who is excluded from non-state governance attempts, and what are the effects of governance for a functionally, socially or territorially specific collectivity on other collectivities? Finally, what are the effects of the pluralization of governance actors and initiatives on the state? The findings from our cases are in particular generalizable for other for-profit actors and forms of commercialized governance, such as private security companies and historical cases of chartered and concessionary companies.

The paper reviews the governance literature with regard to these questions. It conceptualizes inclusiveness, the negative effects of governance and negative externalities, and illustrates these dimensions by drawing on examples from our work on the security and development practices of mining companies in Sub-Saharan Africa. Using the case of a Canadian gold mining company in Guinea, we demonstrate how using these different categories points to different collectivities benefitting from, and suffering negative effects of the company's activities. We conclude by summarizing our main arguments and by discussing the broader political consequences of the pluralization of governance.

2. (Non)Governance for and against whom: a gap in the business & governance literature

Much of the governance literature in IR that deals with private regulation and business actors has several blind spots. It is, firstly, narrowly focused on formalized governance arrangements. In a top-down manner, research focuses on policy commitments and institutional design at the global level.

The literature concentrates, secondly, on well-intentioned initiatives for collective goods provision (Kaul 2003; Haufler 2001; Wenger/Möckli 2003). We explore the resulting blind spots concerning the question of (non)governance for and against whom.

The business and governance literature concentrates on the question of under what conditions business may contribute to collective goods provision. The focus is thus on governance actors. There is, however, not much differentiation between different outcomes of governance. The literature poses the questions of under what conditions single non-state actors choose to contribute to collective goods, or of how a plurality of actors overcome collective action problems to produce public goods, despite market failure (Cornes/Sandler1989, Héritier 2002). Much of the business and governance literature points to the importance of a credible shadow of hierarchy for making 'good governance' behaviour by firms likely. This, however, leads to a paradox when these arguments travel from the context of new modes of governance in the 'coordination state' (Mayntz 2005) to areas of limited statehood in many parts of the non-OECD world. In many cases there, the state is not capable of stepping in when companies renege on their voluntary commitments and mandatory state control is absent (Börzel 2010). Others have shown that there is collective goods provision without a state shadow of hierarchy. Alternative explanatory factors range from local actor constellations and the properties of the goods to be produced, to external shadows of hierarchy, market incentives and normative and cultural factors (Ostrom 1990, Börzel and Risse 2010, Prakash and Potoski 2006, Menkhaus 2007).

Instead of focusing on the motivations and collective action problems of non-state actors engaging in governance, we are interested in different outcomes of non-state governance. The (global) governance debate has addressed the problem of inclusiveness in a quite particular way: by distinguishing public goods provision from the provision of private goods (e.g. Kaul 2003). Public goods are defined as non-excludable and non-rival, whereas private goods are the opposite: excludable and rival in consumption. Common or club goods are in between, defined as non-rival in consumption but with a mechanism of exclusion in place (Cornes and Sandler 1989). From a global perspective, most governance – state and non-state - is governance for clubs; the citizens of nation states are just a bigger club than the members of a local community (Heritier 2002). Drawing on this classification of goods in economic theory, 'public' and 'private' refer to the technical characteristics of particular goods. We are interested, however, in the different size of collectivities benefiting from governance contributions as well as in the size of those being negatively affected by that same governance, or by negative externalities of companies, which we understand here as the result of non-governance. There are thus different collectivities of addressees, recipients and affected. Evaluating the scope and quality of companies' governance contributions requires taking into account those affected by the public bads caused by companies as well.

In regards to the different qualities of non-state governance outcomes, the literature on compliance and on governance effectiveness examines, to a certain extent at least, the local level of implementation of governance attempts. However, the problem with this literature is that it limits itself to looking at outputs (e.g. programs, policies within companies, new administrative structures).

It neither looks into the outcome dimension of these transnational governance initiatives nor their impact (Hönke and Börzel fc). Going around the policy cycle, studies start with studying the role of business in agenda setting and decision making, through policy formulation, and then to the output dimension of the implementation process. Few go further to look for actual changes in behaviour that would be compliant with the policy (the question of who actually receives or benefits from a particular collective good) (Raustiala and Slaughter 2002). The gap between policy commitment and compliance with a policy at the level of outcome is huge and we need more systematic studies about it.

However, the gap in this research goes beyond a lack of systematic outcome assessments. Another issue which has not been properly addressed in this literature is the impact of governance attempts on problem solving broadly speaking (Miles et al. 2002). What do we know about the extent to which a governance contribution by a company is effectively contributing to solving problems in relation to which a particular initiative has been created in the first place? A high level of compliance with voluntary transnational governance and private codes of conduct, for instance, does not say much about the degree of the overall problem solving effectiveness of such programs (Beisheim et al. 2008, Raustiala and Slaughter 2002). There is an argument in some governance literature that private governance actors may turn out to be more likely to pursue particularistic, private interests and are little accountable to those affected by their actions. This makes exclusive forms of governance more likely (Held and McGrew 2002: 14). Criminologists Singh and Kempa, for instance, show for South Africa that commercial security provision increased a fragmented and selective distribution of security. Effective governance for and within clubs is decoupled from broader social and economic peace (Kempa and Singh 2008).

The governance literature tells us little about the unintended and negative effects of non-state actors' governance practices. In fact, it largely ignores the side effects that every attempt to govern, whether effective or not, has (Hönke 2010a). As has been suggested for environmental governance, the consequences on other governance arrangements in the same thematic area are particularly important, as well as the systemic effects on governance outcomes in other thematic areas (adapted from Young 2004). The negative externalities of business practices need thus to be brought back into governance research, such as environmental degradation and the fuelling of conflict, corruption and authoritarian governance by governments (Nest et al. 2006; Ballentine/Sherman 2003; Frynas 2001; Ross 1999; Reno 2001). These studies point to the collectivities negatively affected by non-governance or not-good-enough governance by companies (too exclusive and superficial). Even where there is evidence in particular issue areas and in particular localities for company contributions to collective goods, these need to be seen against and in the context of these negative effects of governance and the negative externalities of other business practices.

3. Inclusiveness, negative effects and negative externalities – towards an analytical framework

Instead of assessing only the extent to which governance actors comply with rules set beforehand, this paper suggests a broadening of perspective on the quality of private governance by examining the entire range of governance practices at the local level and comparing contradictions and conflict between different governance attempts. Corporate practices that are not related to voluntary programs may undermine or even conflict with their requirements and negatively affect the security and human rights of local communities. Such business practices tend to be overlooked by a top-down perspective.

In this section we conceptualize the types and dimensions of the inclusiveness and unintended negative effects of governance, and relate them to different dimensions of negative externalities of core business practices. The goal is to distinguish between more and less inclusive/exclusive forms of governance with more or less negative effects.

3.1. The inclusiveness of governance contributions - scope

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

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

This definition comprises two criteria: inclusive participation in decision making and the inclusiveness of governance outcomes. Research on governance by non-state actors in political science has largely focused on the first criterion. This paper, by contrast, focuses on the second: How are governance problems defined (narrow/broad) and as a result, who is formally addressed by governance? Who actually does benefit from governance, and who is excluded?

At the heart of the problem of governance inclusiveness is the notion of the collectivity. In the absence of a clear definition of the relevant collectivity as the citizens enclosed by state boundaries, this has become a core problem in political theory (see paper Ladwig et al.). We will not attempt here to solve these debates; we rather pursue the modest goal of turning it into an empirical question. Those who are entitled to benefit from non-state governance are not easy to define. The simplest criterion for inclusion is membership. Individuals can be members of a particular organization. Membership gives rights vis-à-vis an organization, and entitlement to receive services from that organization. In the case of companies, these would be a company's employees. On the other extreme, individuals are defined as rights-bearing citizens of a modern state (Stichweh 2009) or as

right-bearing citizens of the world. Neither criterion is, however, empirically very useful when looking at non-state collective goods provision. In many places, citizen rights are neither recognized nor lived in practice. Non-state governors rarely engage in the governance of entire nations. Simultaneously, local communities negatively affected by non-state governance, or the absence thereof, are not a member of, for instance, a company so that they could make claims on that basis. Looking at governance by non-state actors in areas of limited statehood, the object of research largely falls in between these two membership-defined collectivities.

Instead of starting with defining the nature of a governance contribution (a good) or with a particular group of people for whom collective goods should be provided (citizens, the members of an organization), we suggest starting from a particular governance actor (a company in our case). Asking what is the claimed and the actual scope of collective goods provision by a company gives us two measures of how inclusive a governance initiative is. There might be differences in geographical scope in this regard. It is equally important to distinguish with regards to social scope: who is being addressed by governance versus who actually receives or benefits from governance (see also Benecke et.al. 2008).

The literature on inclusiveness is diverse and comes from various disciplines. The one on the nexus of inclusion and exclusion comes from sociology. In sociological debates about poverty and inequality in (post)industrialized, (post)welfare states in Europe and North America, exclusion is understood as exclusion from income opportunities (work, welfare). Such exclusion from economic exchange is then seen as leading to exclusion from other social systems (Kronauer 2002). Poverty and exclusion are increasingly understood as more complex though. Instead of seeing them as economic concepts, the mechanisms that define people as 'ignored' and outsiders of 'normal' society are much broader: those experiencing powerlessness, who are not part of a social system and who suffer communicative isolation are excluded (Farzin 2006: 63). System theoretical approaches emphasize the non-material aspects of exclusion, putting the idea of 'chances to communicate' at the centre of exclusion analysis (Farzin 2006: 64). Important in a postcolonial context is that there is a concurrence of different social structuring principles (Stichweh 2005). Rational-bureaucratic logics and codes coexist with sustained organisational principles different from Western rational-bureaucratic modernity ('incomplete inclusion'). Inclusion in one social system or discursive field may entail exclusion from another and takes place within and between different functional systems in societies – national, local, global – as well as within and between transnational and local social systems (see also Farzin 2006: 85).

Studies from a governmentality and sociology of law perspective show that social and geographical in/exclusion are not the same and should be analytically distinguished (Rose 1999; Valverde 2008; Opitz 2007). Manuell Castells and other proponents of the inequality literature merge these two different dimensions of exclusion, by using metaphors of ex-territoriality such as 'black holes', 'ghettos' and the representation of Africa as the excluded continent (Castells 1996). Whilst there are ghettos and gated communities, social and geographical exclusion do not always fall in one (Opitz 2007: 44).

Through a company's community relations practices one can understand the relevance of distinguishing addressees from recipients of governance and geographical from social scope in this regard. Multinational gold mining company Semafo in Guinea claims in public presentations that they consider neighbouring communities to be the addresses of their community relations efforts. The company accomplished community projects financed from the company funds or carried out in collaboration with local government and social donations. Geographically, most contributions are situated in the villages of Kiniero and Balan. Kiniero is the closest to the main mining site and to the company's administration buildings, and it is also the place where the company encounters most protests and troubles. Balan is a village further north, next to another mining pit. The social scope of Semafo's community relations is also selective. Projects address specific social groups, in particular youth and elders. In 2009, social donations in particular concerned elders of Kiniero: sheeps and jewellery were given to the Imam and two elders of Kiniero village; and a trip to Mecqua for the wise men of Kiniero was funded by Semafo in 2005. There was also transport of students to an exam centre and a youth centre was build. The geographical and social scopes in this case inform us of two different realities: the company's contributions are geographically limited and within these limits benefit certain groups of people more than others. Therefore we suggest analytically separating the social scope and forms of exclusion from the geographical scope and forms of exclusion.

In addition to criteria for the quantity of governance contributions – the scope of governance contributions in policy statements and in practice – we suggest examining the qualitative experience of governance (e.g. Cammett, Maclean, 2011: 9). One aspect of how governance contributions are perceived is how people evaluate the type and quality of good they receive. Another is to examine whether the local population perceives the scope and distribution of governance by the company as fair and inclusive, or as unequal and exclusionary (ibid).

On the first point, one of our cases in Tanzania is illustrative. In the Shinyanga region, there is a clear example of the gap between a seemingly positive social policy outcome (compensation for displacement) and its questionable positive impact. Barrick Gold's Buzwagi mine had to resettle an entire village in order to dig a mining pit and constructed a whole new village, presenting it as a very positive effort towards local communities. Newspapers were enthusiastic: "Barrick provided significantly upgraded replacement homes". However, it turns out these new houses were not appropriate to the way of life of the people who were going to live in them[3]: they all had two rooms and a small amount of land for families of polygamists composed of a man and at least four wives and six kids, with no place for cattle and unfertile lands. Asking about local perceptions gives an idea of whether governance contributions are adapted to the actual problems and needs of those addressed by programs, or if, for instance, corporate social investments are detached from local needs.

The second point about different perceptions of whether governance contributions are equally distributed provides us with another measure to cross-check the claims governance actors make

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

themselves against local perceptions. Public debates about Corporate Social Responsibility (CSR) in Tanzania and Guinea, however, illustrate that one might find competing views and different mechanisms existing for what would be considered as equal distributions of, for instance, the economic benefits of multinational gold mining companies. In Guinea, companies' tax payments are directly injected into a special investment fund for the mining area where they have their operations; a local state agency is in charge for these particular localities and handles the management of the money through participative forums at the village, district and regional levels. Common opinion considers quite unanimously that all the tax money should legitimately go back to the locality next to the mine. On the contrary, in Tanzania the general view translates into practices considering that all tax payments should be redistributed equally throughout the country, without particular treatment for the mining zone, whose specific problems related to the presence of the mining company should be dealt with by the company itself. What actually is considered as the adequate group of addressees, and what as equal distribution, is thus defined differently by socially situated actors in time and place-specific contexts.

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

Figure 1: Dimensions of inclusiveness/exclusiveness of governance

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

3.2. The negative effects of governance

So far we have discussed different scopes in for whom companies might provide collective goods: who is being addressed and/or actually benefits from corporate governance contributions, and who is excluded from these benefits. We now go a step further and consider how such governance for a particular group of recipients may turn out to be governance against others. We ask a question rarely asked in the governance literature: how might 'doing good' turn out to be 'doing bad'? What are the negative effects of governance arrangements in practice? This is to evaluate the inclusiveness of governance not from within a governance initiative (whom does it address or reach), but from the external criterion of who else might be negatively affected by the initiative (for a summary see figure 2)?

Whereas there is concern in the governance literature about the non-compliance of companies with voluntary standards, there is very little about the negative or 'unintended' consequences of governance (for an exception see Daase and Friesendorf 2010 on transnational security governance).[4] Transnational and local private and multi-stakeholder governance initiatives, as well as company activities under the label of CSR, have negative consequences themselves; that is, they affect local social goods provision and (in)security in ways that are not foreseen in these policies. They may be unintended by the individuals who negotiate and/or implement a particular policy, however, since we cannot look into people's heads and thus do not know what their 'true' intentions are, 'unintended' simply refers to the intentions as expressed in a policy.[5] To avoid misunderstandings we prefer to use the notion negative consequences or negative effects.

A first negative consequence of non-state governance is that governance contributions often operate with a narrow definition of a problem and a narrow scope of recipients, as opposed to a broader framing of problems and potential solutions that would also have been possible. Such narrow and superficial policy approaches might be the result of the 'hijacking' of agendas by companies. Companies may more or less openly lobby for setting a narrow agenda, avoiding costs and promoting narrow private interests (see Clifford 2010 for a different case). Multilateral partnerships or local voluntary initiatives may only reflect the smallest common denominator (see also Daase and Friesendorf 2010). Instead of proposing a comprehensive and sustainable solution to a problem, such initiatives may settle upon the smallest effort everyone could agree on: in this case, problem definition as well as the scope and depth of envisaged governance measures are distorted and narrow. An example from the world of CSR is the claim of an interviewee in Tanzania that corporate provision of welfare services is more about "whom do you silence" than about developing inclusive governance at the local level.[6] Companies give something where they feel conflicts are rising. For example, in Geita district (Tanzania), where AngloGold operates a gold mine, the company supports some small producers in three or four villages but does not provide water supply for other villages which really need it.

More generally, initiatives are geographically and functionally so specific that comprehensive solution of a problem is unlikely. For Public-Private Partnerships (PPPs), it has been argued that "the narrow focus of PPPs on specific governance problems may be beneficial in terms of simple performance, but could provoke negative side-effects, and thus, could be dysfunctional in terms of complex performance" (Schäferhoff et al. 2009: 22)

Beyond agenda setting, governance interventions affect local politics and are affected by them. Conflict may arise as a result of companies' well-intended development programs. Certain people and groups benefit from company philanthropy or jobs, and others do not. Some people may lose

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

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

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

authority while others gain in voice and independence. A large part of the actual effects of policies is related to the implementation process: implementation can be incomplete due to a lack of resources or political will. Implementation might be poorly managed and insensitive to the local political and social context. This can be the case because companies contract out the provision of a particular security and development task to actors who do not have the appropriate training and/or equipment. Also, programs might be appropriated and used differently from what was foreseen in the policy, with sometimes problematic effects. Such misappropriation can result from the lack of political oversight and transparency of these programs (see Schroeder 2010 on security sector reform missions). The literature on state building and security sector reform, but also that on the anthropology of development (Mosse and Lewis 2005), provides ample examples of how local power structures change strategies and influence the allocation of money and goods in a partial way. In all these cases, non-state governance may perpetuate, or even aggravates, social and political inequality.

Multinational companies' social programs and practices thus may have negative effects on local politics. In the case of the village of Kiniero, where Semafo operates, local politics are affected because of particular ties between the company and the state authorities at all levels. On the one hand, the maintenance of the *sous-prefect's* vehicle by the company is an example of the type of relationship the state authorities have with the company. Furthermore, the *prefect* used to come to Semafo's facilities every weekend for shelter and food, plus 'an envelope'.[7] There were also regular visits from national ministries and the provincial governor. These higher authorities stayed with Semafo and accepted shelter, fuel and donations from the company. According the NGO representative reporting these habits, these visits by officials did not translate in improved collective goods provision by the state to the local population. When villagers affected by Semafo's operations tried to address them with their problems, the authorities responded that they did not have the time. These practices strengthen provincial and central authorities over local authorities. The smallest local government structure in Guinea are the local development committees at village and and urban neighbourhood level (CRDs and CUs). The CRD-members at Kiniero complained about Semafo not consulting them when problems arise. They would like the company to come to them, instead of skipping them and going directly to the district and provincial level.[8]

Conflict may also arise within and between communities over access to particular development programs. A fundamental question in this regard is what kinds of community get constructed. As neither nation state nor organizational boundaries define the people who may legitimately expect and have the right to request services from the company, these boundaries are fluid and under constant negotiation. There is an important literature, mostly in political anthropology and the sociology of rule, which deals with the construction of identity groups as well as mechanisms of exclusion operating in local arenas (Peluso 2009, Watts 2004). If political topographies are not understood as fixed, but processes of constructing territorial or social spaces are examined, this is

[7] Interview with the leader of an NGO from Kouroussa region, working on conflicts at the local level, 28 February 2011, Kouroussa, Guinea.
[8] Interview with the CRD, 27 February 2011, Kiniero, Guinea.

not only about the scope of governance measured within a given space or community, but is also about seeing how new spaces and collectivities are being made around new actors of governance (e.g. making governable spaces, creating zones of exception in Rose 1999).

Marginalization, for instance, can happen at the local level due to contradicting points of views towards a company. In the case of Kiniero in Guinea, an elder got in conflict with the whole community because he worked with Semafo as a subcontractor, whereas the majority of the village's families pursued a conflictive strategy towards the company.[9] He was marginalized after a public hearing of stakeholders at the national level because he did not take the side of the community. He was no longer allowed to attend ceremonies, such as weddings, baptisms or funerals. In the same village, we also find that interactions with the multinational gold mining companies led to new power relations. Former villagers who had moved to the capital city Conakry and youth in the village have become more important whereas the elders have lost in authority. Those not in the village seem to incite the others to rebel.[10]

Finally, non-state governance may reduce the ability of states to provide for public goods.[11] Instead of complementing governance by the state, non-state governance may rather substitute for it. Substitution may undermine state capacities to deliver collective goods by the simple fact that it is no longer necessary (see also Wood 1997, Cammett and Maclean 2011). Another mechanism weakening state capacities to govern is that companies and international organizations compete with state administration over human capital at the local levels of implementation. Since these external actors are able to pay higher wages than the state, well-educated and effective staff are regularly recruited away from the public into the private or external development sector.

Contrary to arguments that interpret the increasing role of private actors in contemporary governance as a sign of the weakening power of central state authorities, however, the extended role of corporate entities in governance can also be understood as a new form of 'indirect discharge'[12]: governments quasi-outsource local governance to companies and use company governance to regain or strengthen control over regions and revenues from mining, thereby ensuring regime survival (Hönke 2010b). Looking at cases such as the Democratic Republic of Congo, the indirect discharge argument holds that states strategically use the engagement of external non-state actors to retreat from certain state functions (see also Wood's argument about "franchise states" 1997). Discharge can work in very indirect ways. Instead of direct delegation, indirect mechanisms make companies take up governance functions: the discourse of corporate responsibility and private authority, and the (sometimes strategic) absence of the state from providing collective goods.

[9] Interview with the CRD, 27 February 2011, Kiniero, Guinea.

[10] Interview with a member of an NGO working on conflicts in mining areas, 1 March 2011, Kankan, Guinea; Interview members of staff of Semafo, 28 February 2011, Kiniero, Guinea; interviews and observations in Kiniero, 27 February 2011.

[11] This is not a new argument. For discussion of this argument in the context of the transformation of European welfare states see e.g. Offe (2009).

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

Through strategic absence, host states indirectly discharge the management of local grievances and conflict to companies, such as in the mining regions in Southern DRC or in the new gold mining region in the northwest of Tanzania. Figure 2 summarizes the different negative effects of companies' governance attempts.

Figure 2: 'Unintended', negative effects of governance

<table>
<tr><th colspan="2">Negative effects of governance by companies</th></tr>
<tr><td colspan="2">'Hijacking' of agenda – imposition of narrow problem definition</td></tr>
<tr><td colspan="2">On local politics</td></tr>
<tr><td>Perpetuate local inequalities</td><td>De-politicization</td></tr>
<tr><td colspan="2">On local security</td></tr>
<tr><td>Increased insecurity for non-members of the 'club'</td><td>Increased conflict between groups</td></tr>
<tr><td colspan="2">On governance by state: indirect discharge/franchise state</td></tr>
</table>

3.3. The negative externalities of core business practices

Aid organizations, UN and donor agencies base their presence in areas of limited statehood on the claim that they are there to build peace or the capacities of local state agencies, or to deliver social services. A mining company's outright mission is, however, to extract non-renewable resources from a territory to make private profit. Such a mission can be expected to be even less likely to be compatible with taking over public roles of collective goods provision in an impartial and sustainable manner. While the business and governance literature has found such incidents, the problem remains that such studies tend to isolate formalized 'good' governance policies from the negative externalities of the private economic activities of companies (Hönke 2010a, Hönke and Börzel fc). Yet contributions to inclusive governance by companies in one area – often not directly related to the core business of the company – need to be considered against the background of the external effects of practices directly related to companies' core business.

Economists refer to negative externalities as the spill-over of the costs of an economic activity on unrelated third parties. Concerning mining companies, typical examples for such negative externalities are the various forms of serious environmental pollution, such as polluted water, water scarcity, the loss of agricultural land or dust, deriving from the production process. In the case of security, the problem prevails, with asset protection activities aiming at providing security for the company as a private good having negative effects upon collective security and local politics. Such practices fall outside the definition of governance we used here and much of the political science literature on governance. Why are the negative effects of these practices relevant for the question of governance for and against whom? We draw here on the normative criteria of impact and power

suggested by Ladwig et al. (2011) to determine to whom companies may have moral duties. They argue that companies have a responsibility to protect the human rights of all those negatively affected by their operations (negative externalities) and to all those subjected to their power. The point here is that non-governance negatively affects others. No, or not sufficient, provision of rules to reduce negative externalities or compensate for them and no or not sufficiently inclusive provision of collective goods to the collectivities affected by corporate practices produce public bads. Where there are negative externalities of companies' private activities, where companies (ab)use power for achieving private gains at the expense of the broader public, (non)governance is actually against people. The dimension of externalities thus introduces a third layer against which to evaluate the inclusiveness (and quality) of governance by companies.

Concerning mining companies, typical examples for such negative externalities are various forms of serious environmental pollution, such as polluted water, water scarcity, the loss of agricultural land or dust. Negative externalities in the social domain are increased migration, various social problems such as prostitution and an increase in HIV/AIDS infections. Companies, by their simple presence, physically change the area in which they operate and have direct consequences on local people's everyday lives. As an example, since Semafo arrived in the village of Kiniero, the area has been strongly affected by red dust coming from the mining activities. It spreads everywhere in the surrounding villages, covering houses and roads, cattle and people's hair and clothes. It causes breathing problems and sickness, especially to children and the elderly. In the same area, a road was cut to force villagers to pass in front of the military camp and be checked as they leave the mining zone. In Tanzania we can observe similar externalities. Traditional paths to natural streams as a source of water were cut by GGM (Anglogold's mine in Geita District), forcing villagers to take alternative roads and adding hours of walking to go around the mining pits. The company then built a well for those who were no longer able to access the stream and presented it as a CSR initiative. The core activities of these mining companies affect the surrounding areas more broadly than their governance responses do.

In the domain of local security governance, the protection of companies' assets, that is the provision of security as a private good, has serious negative effects on local collective security. In the DRC, for instance, Anglogold Ashanti in Eastern Congo and Anvil Mining in the Copperbelt in Southern Congo deploy large numbers of private and state security agents. Roads and fields are rendered inaccessible because of patrols and road blockages. More security personnel in these areas has led to an increase in violent encounters between local residents and security forces. Sometimes, cases of extortion of illegal taxes have been reported (NIZA and IPIS 2006; Kobler 2011). In addition, local people and a large migrant population have lived from artisanal mining in both areas since the breakdown of the formal mining industry with the beginning of the Congolese wars in 1996/7. They are now chased off from concessions, without being given alternative means of generating income (Hönke 2010b).

Anotherexample comes from Tanzania where the presence and security strategy of multinational mining company Barrick Gold increased insecurity in North Mara region. The North Mara region is renowned for its hostility and inter-clan conflicts. Violent encounters in 2009 had increased and were

analysed as being linked to the sharp rise of gold prices (almost threefold in the past five years). Barrick Gold complained about having more and more intruders, often armed, along with theft and vandalism resulting from organized crime at the border with Kenya. The company asked the government for the establishment of a special federal police force in the region.[13] According to informants, the establishment of this special police was meant to secure the company and its relationship with the state, not to secure the people.[14] Indeed, it seems that consequently the special police force only gets very selectively involved in security provision, as it usually operates exclusively for and gets its directives from Barrick Gold.[15] There are frequent reports of violent incidents with involvement of security actors associated with the company.[16] As we have argued for negative consequences of well-intended governance programs in the section above, conflict may also arise as a negative effect of companies' economic activities and related practices for protecting private assets.

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

In a different form, we found such exclusive, clientelistic strategies fostering benefits for a club against the broader collectivity in the case of Geita District in Tanzania. Spending on social services by AngloGold, which operates in the area, were initially meant to benefit a number of villages, but were then actually spent strategically on specific communities in which chiefs or politicians had close collaborative ties with that company (Lange 2006). Additionally, members of parliament in Geita are co-opted by the company, while some leaders are provided with fuel for free and other material gifts[17]. Furthermore, in the North Mara region of Tanzania, local representatives up to the District

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[13] Ibid.
[14] Interview with a member of an NGO from Musoma (in the North Mara region) working on Tanzanian mining areas, 7 April 2011, Mwanza, Tanzania.
[15] Ibid.
[16] E.g. security personnel shooting intruders, protests, clashes with protesters, villagers invading and stopping the mine for 37 hours on 31 January 2011. After deployment of 25 paramilitary police guards, confrontations with locals increased and there have been number of shooting" in Wall Street Journal, 03.12.2009.
[17] Interview with a member of ACORD (Agency for Cooperation and Research Development), 8 April 2011, Mwanza, Tanzania.

level have allegedly been put in place with the help of Barrick Gold. The company seems to have funded their political campaigns in order to facilitate their access to land prospection and acquisitions[18].

These cases show that we need to take the political economy of access to resources, accumulation and power at the local level into account and how it is being transformed by the practices of multinational companies and transnational governance interventions more generally (Peluso 2009, Berry 2009). The single most important issue in this regard is the question of land and access. Territory in most parts of Africa is controlled “both for its economic value and as a source of leverage over other people” (Berry 2009: 24). Giving contracts over large concessions to mining companies - as fostered by external economic reforms since the 1980s - has increased local competition over land. Where there is a tradition of local artisanal mining, it has aggravated conflict over access to mineral resources as well. Changes in the accessibility of and rights to land have deep political implications where land is not simply an economic resource but defines group membership and social and political hierarchies. The question of land and access engenders one of the fundamental contradictions at the roots of conflict in local mining zones: in Tanzania, as well as in Guinea, tradition and customs consider the land as the property of the first occupier, while national regulations and the state consider it to be the property of the state. This creates a core misunderstanding between local customary occupiers, along with artisanal miners, and licensed miners and companies.

Figure 3: The negative externalities of core business practices

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

Finally, multinational companies have a particular negative effect on governance by the state in dysfunctional and authoritarian states: they indirectly strengthen and reproduce unaccountable governments and cement political and social inequality in host societies. The rentier literature directs attention to such indirect effects of transnational mining companies on governance (e.g. Ross 1999). Governments in many cases still serve as the main gatekeeper between the domestic and the international spheres (Reno 2001, Bayart 2000). In spite of states’ overall weak capacities, governments maintain the monopoly over symbolic capital and the legal authority to decide over

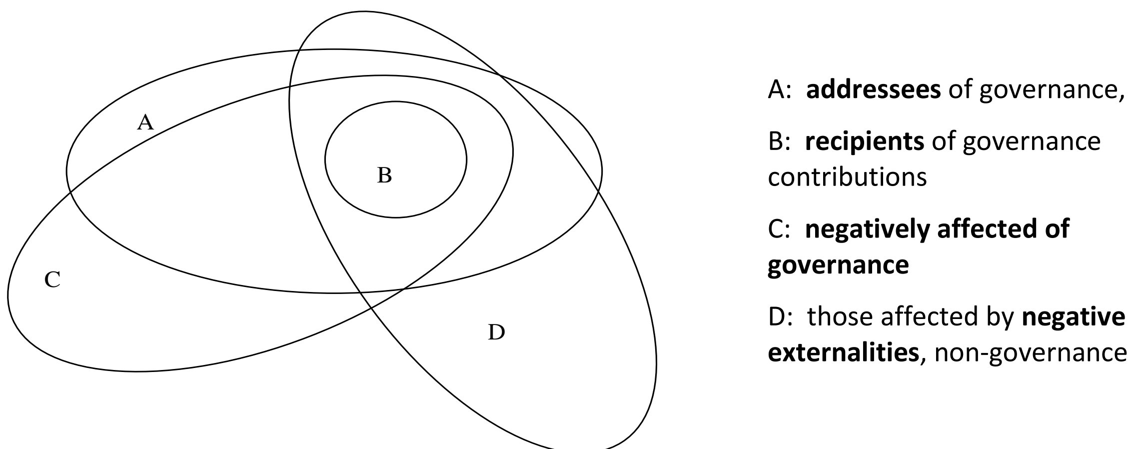
[18] Interview with a member of an NGO from Musoma (in North Mara region) working on mining areas, 7 April 2011, Mwanza, Tanzania.

mining rights. Figure 3 summarizes the dimensions and indicators for negative effects of non-state governance practices that can be derived from the above review of the literature.

4. The inclusiveness of governance contributions in light of different collectivities

How do our analytical categories for distinguishing different qualities of local governance by companies point out different collectivities which are affected, subjected and/or ought to be addressed by business governance practices? Our general point here is that different scopes of company governance, and different collectivities related to corporate activity, can be distinguished. Comparing these different spaces or collectivities allows evaluation of companies' engagement in particular governance activities in the light of different, partly overlapping, collectivities. We hold that such differentiation is necessary as there are huge differences between the collectivity of those defined by the company as addressees and those who actually benefit from a governance initiative. The difference becomes even more striking when bringing the collectivity of those being negatively affected by governance, or by the private activities of the same actor, into the picture (see figure 4).

Figure 4: Overlapping collectivities



Who are these different collectivities - either addressed or negatively affected by (non) governance – in one of our case studies? How large or small are they compared to each other, and what does this tell us about the quality of company governance? We draw here on preliminary findings from a pilot case study we have done on a gold mining company in Guinea - the Canadian company Semafo in the district of Kouroussa in Upper Guinea (see summary in figure 5).

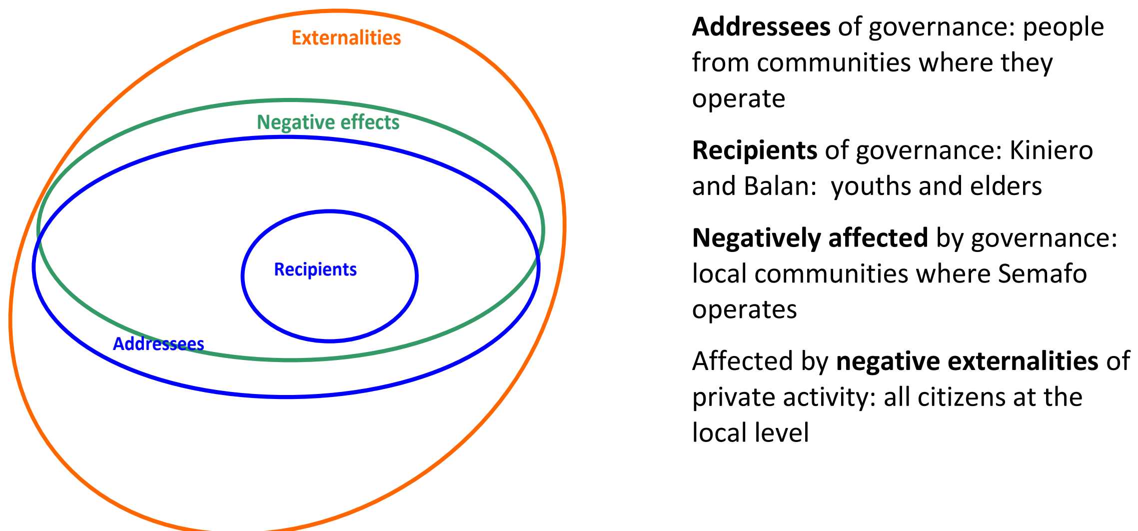
In official reports on their CSR practices, the addressees of Semafo's social programs and practices are very broad: they concern people from communities where they operate[19]. In practice, as we mentioned earlier, they address specific localities, namely Kiniero and Balan, which are both

[19] « [P]opulations des communautés où nous exerçons nos activités », in Semafo Report 2008 *Politique en matière de responsabilité sociale*, p.1.

troublesome areas situated close to mining pits. However, within these villages, the actual recipients are specific groups of people strategically chosen: namely youth and the elders of the village.

What are the communities affected by Semafo's CSR strategy? When looking at the negative effects of CSR in practices, we observe clientelistic strategies, such as the maintenance of the *sous-prefect's* car, inviting the prefect to the company facilities and giving prizes to elders. In certain contexts, these practices 'work': for instance, in Tanzania, Barrick Gold paid for political campaigns in order to have local authorities on their side to calm down tensions. A narrow coalition of managers at the local branch of Barrick and a few local authorities benefits from extraction. This coalition effectively suppresses democratic procedures and local mechanisms of accountability, as local leaders are responsive in the first place to the company.

Figure 5: Different collectivities in Kouroussa area



In the village of Kiniero, next to gold mining company Semafo in Guinea, the use of CSR as clientelistic strategy has had different consequences on local politics. It actually de-legitimized those elders and village heads who accepted donations. According to an interviewee, they were no longer seen as being impartial in their judgements because they accepted gifts from the company. [20] They were thus no longer perceived by the youth of the village and influential people from Kiniero now living in Conakry as credible authorities in matters concerning community-company relations. This has led to changes in power relations in the local community, giving authority to the youth to mobilise against the company. Interestingly, the company then 'adapted' their governance engagement to benefit the youth. Instead of providing employment, however, Semafo built a youth centre and a school. We could thus interpret the choice of the company to privilege elders and young people as an attempt to silence those who initiate trouble.

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

Corruption practices also materialize in the buying off of central authorities, inviting them to stay in company facilities, giving them envelopes, and taking care of fuel and fees. These authorities do not take the opportunity to meet their people in the surrounding villages. Externalities of these core business practices result in downsizing of the central authorities' accountability at the local level. This externality draws in yet another, even broader, subjected community comprising all citizens at the local level.

5. Conclusion

This paper has set out to broaden the research agenda on business and governance: from a focus on companies' commitment to, and compliance in terms of output with, transnational governance initiatives to the local dynamics and effects of (non)governance by multinational companies. Governance contributions by companies (or any other actor) are often assumed to be something good. The paper emphasizes that we should also ask good for whom (Avant at al. 2010 end on a similar note, p. 365 f., see also Hönke and Börzel fc.), and has proposed some steps for how this could be done. Looking at the different scopes of (non)governance is a way to differentiate between who benefits and who loses (inclusiveness as scope) or is hurt by governance (negative effects of governance). And who, in turn, is being hurt by core business practices and the non-governance of the negative externalities of companies?

This paper has focused on the negative effects of individual company and multi-stakeholder governance – that is the side effects of singular, collective-goods- oriented governance initiatives – and negative externalities. Yet there are also broader political consequences of the pluralization of governance actors. There are different visions of where increasing non-state and plural governance will lead. The business and governance literature, and especially that on CSR, is mainly in the camp of those Avant et al. (2010: 358) refer to as looking for 'virtuous cycles' of better collective goods provision and regulation for the public good. These authors take inspiration from John Ruggie (1998) and others who argue that the participation of non-state actors in governance may increase the overall provision of collective goods. Others, however, have argued that 'vicious cycles' towards overlapping and competing rules and non-governance, degrading accountability, fragmentation and exclusiveness of governance will prevail empirically (e.g. Cerny 1998). Non-state actors may thus eventually reduce overall collective goods provision because of the limited scope of their mandates and activities, and because of their negative effects on governance by states.

There is also huge variation in what we find empirically. There is evidence for both tendencies. Not all governors make broad claims about contributing to the collective good. Some may do so but actually benefit only a small group. Others openly work for the interests of a small group. Looking at different company sites in different developing countries, great differences in corporate governance practices, in the inclusiveness of corporate governance outcomes and in the degree of negative effects of corporate core business practices can be observed. We have illustrated some of these observations in this paper (see also Hönke 2010a, Börzel and Heritier fc., Hönke and Thauer).

The interesting question is thus not whether companies do good *or* bad, contribute to governance or not as such. We want to understand in which situations they do what, and how the scope of a governance contribution relates to the public bads caused by the same company? This paper provides the basis for systematically describing and explaining different degrees of inclusiveness of business governance contributions and collective bads. We will do so by comparing companies in different areas of limited statehood in Sub-Saharan Africa, such as in South Africa, Tanzania, Guinea and the DRC, in the SFB project D2 (see footnote 1).

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