# BOOK REVIEW
## *Responsible Mining: Key Principles for Industry Integrity by Sara Bice* (Routledge Earthscan London 2016) ISBN-13: 978-1138788244

**W Du Plessis***

**Author**

Willemien du Plessis

**Affiliation**

North-West University, South Africa

**Email**

Willemien.duPlessis@nwu.ac.za

## Abstract

This contribution reviews the book entitled "Responsible Mining: Key Principles for Industry Integrity" authored by Sara Bice and published by Routledge in 2016.

## Keywords

Mining; environmental damage; climate change

.........................................................

## Review

In the last few years mining companies have been targeted as being responsible for environmental damage, social disintegration, poisoning the earth, contributing to climate change and the loss of biodiversity, amongst many other things.[1] Many people have called for a halt to mining and communities opposed to mining have used all sorts of measures to prevent mining in their areas.[2] As Bice points out, the consumption patterns of the earth's population indicate another trend.[3] The world has become dependent on minerals and cannot live without them. There may be a call for a shift away from coal, but the demand for rare metals to sustain new technologies and renewable energy is rising.[4] She indicates the marked difference in how mining companies behave in the developed and developing world.[5] In the developed world mines are regulated more severely and mines are policed, while in the developing world the governance of mines is not always strong and communities not always safeguarded.[6] She also indicates that in recent years mining companies have become aware that they can no longer exploit the earth and communities as they may have done in the past.[7] There is a realisation that mining should not only protect the natural environment but also contribute to the upliftment of the surrounding communities and the communities from whence their workers originate (the "sending communities").[8]

She bases her book on the premise that "(m)ining can be responsible", but that "corporations have little impetus to act responsibly without being held to account by an informed and active public, by strong institutions and governments which not only create but enforce legislation".[9] She states that

---

*    Willemien du Plessis. B Jur, LLB, MA (Environmental Management), LLD (PU for CHE). Professor in the Faculty of Law, North-West University, Potchefstroom, South Africa. Email: willemien.duplessis@nwu.ac.za.
1    See eg DEA *et al Mining and Biodiversity Guideline*; Pellegrino and Lodhia 2012 *Journal of Cleaner Production* 68-82; Owen and Kemp 2013 *Resources Policy* 29-35; Kotzé and Feris 2014 *PELJ* 2105-2163; Hartzer and Du Plessis 2014 *SAPL* 469-493.
2    See eg CER 2012 http://cer.org.za/wp-content/uploads/2012/06/Wits-CER-Mining-Litigation-Review-Updated-18-June-2012.pdf.
3    Bice *Responsible Mining* 1-2.
4    Bice *Responsible Mining* 2-4.
5    Bice *Responsible Mining* 4-5.
6    Bice *Responsible Mining* 5.
7    Bice *Responsible Mining* 6-8.
8    Bice *Responsible Mining* 9-10.
9    Bice *Responsible Mining* 2.

"(p)erhaps for the first time in the history of the mining industry, the foundations are in place to support responsible mining".[10]

What is "responsible mining"? Bice states that despite the fact that the term "'responsible mining' seems at different times and locations: a great ambition, an oxymoron, a noble cause, weasel words, the new way of doing business or a pipe dream", it is "possible and necessary".[11] She develops five principles to support her framework for responsible mining. These principles are:

(a)     holistic assessment;

(b)     community-based agreement-making;

(c)     ethical decision-making;

(d)     appropriate boundaries; and

(e)     good governance.[12]

These principles are to be regarded as "an integrated and overlapping set of values and practices" that "can be used at any stage of the mining lifecycle – from exploration to rehabilitation".[13]

Her research is not merely a theoretical study but is based on field studies undertaken in Australia, Papua New Guinea and West Africa.[14] The combination of theoretical reflection and practical examples makes this study a worthwhile read. She indicates that the book is not a theoretical work but will hopefully "introduce an overarching framework for responsible mining … to construct a scaffold onto which better, stronger, more long-term practice can be based".[15]

In Chapter 2 she provides a critical analysis of corporate social responsibility (CSR) from a theoretical perspective. She explains the social drivers for the adoption of CSR. She indicates, for example, that CSR appealed to the financial bottom line,[16] the acceptance of a social responsibility,[17] as part of

---

10     Bice *Responsible Mining* 8.
11     Bice *Responsible Mining* 15.
12     Bice *Responsible Mining* 8.
13     Bice *Responsible Mining* 70.
14     Bice *Responsible Mining* 9.
15     Bice *Responsible Mining* 175.
16     Bice *Responsible Mining* 16.
17     Bice *Responsible Mining* 17.

risk management, and that it provides corporations with a competitive advantage.[18] She defines CSR for the purpose of the book as:[19]

> A pattern of policies and activities undertaken by companies which are directly and indirectly related to their primary operations, but which are significantly influenced by social norms and expectations – as understood by companies and stakeholders – concerning the company's social, environmental and economic behaviours and impacts.

According to Bice, CSR can therefore not be a once-off contribution but should be a continuous activity. She then argues that CSR does not need to have a universal theory but that a balance could be struck with a mid-range theory, acknowledging that such a theory may also have its own limitations.[20] She indicates that CSR "is institutionalized through the work of four main social mechanisms", namely "discourse, mimesis normative learning, and coercion" translated as "shared language, peer pressure, group identity and discipline". She then discusses these mechanisms in relation to CSR and mining.[21] In Chapter 3 she indicates that the global mining industry is experiencing a downward slump, that commodity prices have been at their lowest in 2014, and that even the countries that have shown a growth are slowing. In 2016 the outlook was not better.[22] She asks what mining companies should still attempt to do in this negative economic climate in response to their CSR commitments. She applies her CSR model (developed in chapter 2) to 50 multinational mining companies' sustainability reports (representing five companies from 2003 to 2013)[23] and finds that companies report more on environmental and economic issues than on social issues.[24] Although there is concern for social issues, there is a lack of information on what mines do with regard to them (at least, in their reporting).[25] She states in the conclusion of chapter 3 that:

> The aspirational CSR detailed in this chapter alludes to potential gaps between mining industry discourses and public disclosures and the more practical implementation of corporate social responsibility policies, management approaches and programmes at corporate headquarters and in communities.

---

18    Bice *Responsible Mining* 17-18.
19    Bice *Responsible Mining* 21.
20    Bice *Responsible Mining* 21-23.
21    Bice *Responsible Mining* 24-36.
22    Deloitte 2016 https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Energy-and-Resources/gx-er-tracking-the-trends-2016.pdf,
23    Bice *Responsible Mining* 45.
24    Bice *Responsible Mining* 56.
25    Bice *Responsible Mining* 64.

Bice then turns to discuss her five principles of responsible mining, and in chapter 4 she addresses "Holistic assessment and community based agreement-making". With regard to assessment she indicates that many governments require from mining companies that they do environmental and social impact assessments as part of their authorisation requirements. If this is not required, then the World Bank guidelines sometimes require "attention to 'non-technical risks'".[26] Bice critiques the impact assessment processes by discussing the history as well as the shortcomings of the current processes. She indicates, amongst other things, that numerous studies are undertaken during a social impact assessment but that these studies are not necessarily integrated (eg health impact assessments, human right impact assessments, and heritage impact assessments). This may lead to the wrong conclusions.[27] She "advances concepts and methodologies to support more holistic impact assessments".[28] She proposes that a holistic impact assessment must be undertaken where scientists from different disciplines work together to agree on how the mining impacts (environmental, social, cultural, economic, etc) should be dealt with. Mines should budget for such an assessment and governments should be convinced that a holistic assessment will achieve the same result as the multiple assessments currently being undertaken.[29]

Community-based agreement-making (CBIA) supports holistic assessment in that the community may provide information to the mining company that could benefit the company in terms of costs, and benefit the community.[30] According to Bice

> Community-based agreement-making incorporates local knowledge and concerns providing the community members with opportunities to contribute feedback about and secure responses to ongoing impacts. Such processes can result in "community impact and benefit agreements" (CBIAs) which aim to secure the meaningful, continuing involvement of local people in determining their futures relate to the mining development process.

CBIA can ensure that the impact assessment findings are given effect to.[31] She highlights the importance of free, prior and informed consent (FIPC) in community-based agreement making in the mining context:[32]

---

[26]   Bice *Responsible Mining* 70-71.
[27]   Bice *Responsible Mining* 72-81.
[28]   Bice *Responsible Mining* 71.
[29]   Bice *Responsible Mining* 81-85.
[30]   Bice *Responsible Mining* 71.
[31]   Bice *Responsible Mining* 86.
[32]   Bice *Responsible Mining* 88.

> At its core, FIPC aims to ensure that communities take decisions without coercion, that decisions are taken based on full information, that no activities are begun without authorization, that consent is actively sought and that communities maintain the right to grant or withhold consent for resources projects.

She then describes how mines utilise CBIAs in different regions of the world.[33]

In Chapter 5 Bice discusses the next principle, namely ethical decision making. The International Council on Mining and Metals (ICMM) requires its members "to implement ethical business practices and sound systems of corporate governance".[34] The ICMM, however, does not elaborate on the standard of ethical business practices. Bice reflects on the relationship between CSR and ethics in the areas of business, human rights and the environment in the light of ethical scholarship.[35] She states that "negotiating ethical uncertainty poses risk for responsible mining behaviour".[36] She also comes to the conclusion that CSR is not ethics and that ethics are not CSR[37] and that ethics in mining remains a fuzzy concept. In relation to human rights she refers to the United Nations Global Compact (UNGC) for responsible corporate behaviour, to which various companies adhere. The ICMM also refers to the document and endorses the idea by stating that their members should have an understanding of how their activities could infringe upon the human rights of others. She indicates that the definition of social responsibility in ISO26000, the ISO Social Responsibility Standard, reflects an integration between ethical behaviour and respect for human rights.[38] According to Bice "(t)hrough cultural sensitivity, principled decision-making and acknowledging power differences between company representatives and community members, ethical relations are possible".[39]

Chapter 6 deals with appropriate boundaries and good governance. Mines invest more and more in local infrastructure and services. The question is, where does CSR begin and end, and where does the responsibility of government kick in? Bice found that in some countries it is expected of mines to assume the role of local government in the provision of services. In some areas the mines or a worker of the mine decides what would be best for the community. The service is installed without providing the

---

33    Bice *Responsible Mining* 88-91.
34    Bice *Responsible Mining* 97.
35    Bice *Responsible Mining* 97.
36    Bice *Responsible Mining* 101.
37    Bice *Responsible Mining* 101-102.
38    Bice *Responsible Mining* 105-106.
39    Bice *Responsible Mining* 10.

community with the necessary knowledge to sustain the service after the closure of the mine. Local government or governments in these countries also withdraw from their responsibilities once a mine moves into a certain area.[40] As Bice states: "the tendency to accept company-based social development can create unintended dependencies, lead to corporate overreach, and undermine government responsibilities".[41] She indicates that "appropriate company interventions may serve to build government capacity and promote socio-economic development".[42] She concludes:

> Establishing appropriate boundaries encourages better, deeper and more clearly defined relationships. It emphasizes reflection and adjustment, as opposed to necessarily discouraging corporate intervention in social issues. The distinction is important, as responsible mining requires action in areas beyond the traditional corporate remit. At the same time, the responsibility at its core demands careful weighing of actions to avoid community dependency, absenting government responsibility and establishment of unsustainable services or infrastructure.

She then indicates that transnational mining governance has advanced to governance beyond the boundaries of national states.[43] She refers to the numerous voluntary initiatives detailing different governance standards, guidelines, reports and programmes for mines, but discusses in more detail the ICMM, the Global Reporting Initiative (GRI) and the Extractive Industries Transparency Initiative (EITI).[44] Some of these initiatives have influenced the introduction of legislation. For example, the EITI cannot on its own ensure transparency in the mining industry, but where it has inspired transparency legislation it has achieved some results.[45] She also found that mines rely on voluntary mechanisms to inform their social performance.[46] Bice proposes a mix of regulatory instruments (voluntary and mandatory), but cautions against over-regulation.[47]

Chapter 7 is entitled "Making responsible mining happen". In this chapter Bice proposes "a middle range theory of CSR to support future research into responsible mining" and proposes how the theory should be implemented.[48] She makes eight propositions in this regard. Her first proposition, for example, is that CSR is an institution that "is embedded in

---

40    Bice *Responsible Mining* 116-122.
41    Bice *Responsible Mining* 117.
42    Bice *Responsible Mining* 120.
43    Bice *Responsible Mining* 122.
44    Bice *Responsible Mining* 123-131.
45    Bice *Responsible Mining* 131-136.
46    Bice *Responsible Mining* 138.
47    Bice *Responsible Mining* 138-141.
48    Bice *Responsible Mining* 145.

cultural and historical frameworks, shaped by (and shaping) cultural norms, but is not necessarily a product of strategic equilibrium or conscious design".[49] CSR manifests as "an idealized vision of corporate-society relations; a series of policies and management practices primarily aimed at earning and maintaining a social licence to operate; and a reactive suite of programmes which are responsive to immediate local pressures, respectively".[50] According to proposition 2 "the mode of CSR institutionalized at any particular level of analysis may be distinctive to that institutionalized at another level".[51] Companies use this form of CSR to obtain the so-called social licence to operate, and it is often introduced "in response to immediate social pressures faced at the operation site level". Although this kind of CSR may seems to be more tactical and responsive to local community concerns, it may be ill-focused and short-term, and may lead to community rejection.[52] According to Bice CSR has three dimensions, namely aspirational, strategical and tactical, that "are constructed through the operation and interactions of key mechanisms with one another and with diverse social contexts".[53]

Her conclusion to chapter 7 is a good summary of what she sets out achieve:[54]

> Achieving responsible mining will require much change. And it needs to include: adoption of holistic assessment to understand impacts; company community relationships guided by community-based agreement-making; application of ethical decision-making; the setting out of appropriate corporate-community-government roles through capacity building of communities and local governments to improve their agency and ability to engage effectively with large corporations while discouraging companies from assuming quasi-governmental roles; and support for policies and regulations that clarify and embed good governance and accountability. At the beginning of the twenty-first century, the opportunities are there. Let's hope the institutional change required will be sparked through their proactive embrace, not the crises, that would command them.

In chapter 8 she concludes with "Hope for the Future".

As the author herself indicates, nothing that she has said is new, if the reader regards each of the issues discussed separately. However, she has combined the issues into a new paradigm to provide mines with a new way of approaching their responsibilities. Her view of responsible mining is also

---

49   Bice *Responsible Mining* 149.
50   Bice *Responsible Mining* 149.
51   Bice *Responsible Mining* 149-150.
52   Bice *Responsible Mining* 150.
53   Bice *Responsible Mining* 167.
54   Bice *Responsible Mining* 168.

important in so far as it sets boundaries. It indicates that responsible mining is not a once-off event but a continuous action during the lifecycle of a mine, and that it should not focus only on environmental and economic issues but also on social issues. She indicates the important role that community-based agreements could play during the lifecycle of mines and how mines should involve communities. The book also stresses the importance of the fact that mines are not government institutions and should never assume the role of a government institution.

The book is well researched and argued. Theory and practical examples are interwoven to make the work understandable. The book is a recommended read for academics, legal practitioners, the mining industry and government officials, as well as non-governmental organisations with an interest in mining.

## Bibliography

**Literature**

Bice *Responsible Mining*
Bice S *Responsible Mining: Key Principles for Industry Integrity* (Routledge Earthscan London 2016)

DEA *et al Mining and Biodiversity Guideline*
Department of Environmental Affairs *et al Mining and Biodiversity Guideline: Mainstreaming Biodiversity Into the Mining Sector* (The Department Pretoria 2013)

Feris and Kotzé 2014 *PELJ*
Feris L and Kotzé LJ "The Regulation of Acid Mine Drainage in South Africa: Law and Governance Perspectives" 2014 *PELJ* 2105-2163

Hartzer and Du Plessis 2014 *SAPL*
Hartzer S and Du Plessis W "The Liability of Historical Mine Authorisation Holders for Rehabilitation of 'Old Order Mine Dumps'" 2014 *SAPL* 469-493

Owen and Kemp 2013 *Resources Policy*
Owen JR and Kemp D "Social Licence and Mining: A Critical Perspective" 2013 *Resources Policy* 29-35

Pellegrino and Lodhia 2012 *Journal of Cleaner Production*
Pellegrino C and Lodhia S "Climate Change Accounting and the Australian Mining Industry: Exploring the Links Between Corporate Disclosure and the Generation of Legitimacy" 2012 *Journal of Cleaner Production* 68-82

**Internet sources**

CER 2012 http://cer.org.za/wp-content/uploads/2012/06/Wits-CER-Mining-Litigation-Review-Updated-18-June-2012.pdf
Centre for Environmental Rights 2012 *Mining and Environment Litigation Review* http://cer.org.za/wp-content/uploads/2012/06/Wits-CER-Mining-Litigation-Review-Updated-18-June-2012.pdf accessed 24 January 2017

Deloitte 2016 https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Energy-and-Resources/gx-er-tracking-the-trends-2016.pdf
Deloitte 2016 *Tracking the Trends: The Top 10 Issues Mining Companies Will Face in the Coming Year* https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Energy-and-Resources/gx-er-tracking-the-trends-2016.pdf accessed 24 January 2017

## List of Abbreviations

| CER | Centre for Environmental Rights |
| CBIA | Community-based agreement-making |
| CSR | Corporate social responsibility |
| DEA | Department of Environmental Affairs |
| EITI | Extractive Industries Transparency Initiative |
| FIPC | Free, prior and informed consent |
| GRI | Global Reporting Initiative |
| ICMM | International Council on Mining and Metals () |
| ISO | International Standards Organisation |
| PELJ | Potchefstroom Electronic Law Journal |
| SAPL | Southern African Public Law |
| UNGC | United Nations Global Compact |