

The Laws of Extraction – Environmental Rights and Legal Regulations in Struggles over Natural Resources in the Americas: *An Introduction*

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The Americas, and especially South America, have been a source of natural resources ever since colonial times. Eduardo Galeano's book *The Open Veins of Latin America (Las Venas Abiertas de América Latina)*, first published in 1971, remains a powerful metaphor for depicting the economic exploitation of the subcontinent by European countries and later the United States. In recent decades, however, global and domestic conditions of access to these resources have changed. On the one hand, new actors—especially China—are diversifying the global customer base while American economies have developed their own demands for primary goods. Among South American governments, a “commodities consensus” (Svampa 2015) prevails. In the mean time, new models for using the revenues generated from the extraction and the export of natural resources in order to improve living conditions have led to the coining of the term “neo-extractivism” (Gudynas 2009). On the other hand, environmental laws, human rights, and participatory mechanisms have together set new frameworks for the extraction of resources. Law—national and international—plays a crucial role in the regulation of the access to natural resources of forests, land, water reservoirs, and subsoil. At the same time, actors use a broad variety of legal strategies to secure their interests. Among the most controversial instruments applied in this new context are binational and several multilateral free trade agreements. A core question, then, is: Who has the right to access and use resources? (Benda-Beckmann 2001; Martínez-Alier and Walter 2016; Sawyer 2004).

Legal regulations play a major role in defining this, and therefore are highly contested in both their elaboration and implementation. The different uses of law in the access to natural

resources has stimulated major discussions in politics and academia beyond just the discipline of Legal Studies, and thus also scholars of Political Science, Legal Anthropology, and Political Ecology are asking if law is an instrument to protect the environment or to exploit it; to secure economic interests or to establish fair trade; to impose resource exploitation or to defend the rights of local populations? Answers to these questions evolve around discourses about old and new inequalities between the Global North and the Global South; about neo-extractivism and participatory environmental governance; about the encounters of law from above and law from below; and, about concepts of environmental justice.

The present issue of *fiar* on the “**Laws of Extraction**” explores different ways in which law is used in the context of the access to the environment and the exploitation of natural resources in the Americas. Drawing on experiences within the American continent, the special issue aims to contribute to critical literature on the uses and negotiations of law in natural resource exploitation, thereby encouraging interdisciplinary approaches and dialogue between the different fields of Legal Studies, Political Science, Anthropology, Political Ecology, History, and Economics. How is law used and negotiated in the context of environmental issues and resource extraction? Who uses law, and why? What are the legal and political strategies that actors apply—do they work in complementary or contrary ways? And on a deeper level: What are the epistemological implications of using law, for indigenous groups for example, and what alternative forms of law are there?

1. Patterns of Resource Extraction: Old and New Models

In Latin America, the economic premise of resource extraction has reached a new peak in the 2010s. While primary natural sources such as gold, silver, oil, and other minerals characterized the colonial system, they have reemerged in recent times with the commodity price boom, leading to a “re-primatization of Latin America” (Burchardt and Dietz, 471-472). China has become the third-largest foreign investor in the region, with a heavy focus (approximately 90 percent of its endeavors) being on natural resources (Haarstad, 2-3). According to Burchardt and Dietz (473), there are three different sub-regional groupings of countries according to their degree of dependency on the extraction and export of primary resources. The first group are the Andean countries, which have economies with high shares of resource revenues—oil in the cases of Ecuador and Venezuela, mining for the states of Peru and Chile, and gas for Bolivia. The second group consists of such South American states as Argentina and Brazil, which have more diversified economic sectors; however in many the extractive sectors are now growing. The third group are Central America countries and Mexico, whose economy is structured differently and not based on extraction. Nevertheless, the authors state that even these countries are increasing the focus on the extraction of raw materials (*ibid.*).

In political terms, the scholarly literature distinguishes between countries that produce raw materials with a high share of extraction rents in the national economy that follow old “neoliberal models” and others that take more progressive developmental paths. This neoliberal model is based on low state intervention and a free market economy, where private transnational companies (TNCs) extract the wealth in natural resources out of national economies in the case of countries like Colombia and Chile (*ibid.*, 475). In contrast to this, leftist governments have introduced stronger state-oriented models—for which the Uruguayan social scientist Eduardo Gudynas introduced the aforementioned term neo-extractivism in 2009. In order to describe the innovative strategies of handling extraction

in countries such as Bolivia, Ecuador, and Venezuela, Gudynas defined neo-extractivism as a new development model that changed the common features of traditional extractivism—with the involvement now of the state via the nationalization of the oil and mining sectors, export of raw materials, and the use of revenues to improve living conditions, for example by increasing export taxes (Burchardt and Dietz, 475).

Macroeconomic indicators show evidence of economic growth and decreasing poverty in the region. However, critical literature, especially in Political Ecology, has lamented that the “progressive changes” in Bolivia and Ecuador—countries that declare themselves to be post-neoliberal—“seem to be more rhetorical than substantive” and repeat a “pattern that translates into replays of long histories of colonialism, of violent incorporation of peripheries, and of resource dependence” (Bebbington and Humphreys Bebbington, 142). Furthermore, patterns of social inequality seem to be remaining mostly intact exactly because these improved economic indicators are mainly due to social programs and the growing formalization of the labor market, rather than to redistributive tax systems (Burchardt and Dietz, 474). This can be called the “elevator effect,” meaning that “almost all social groups are moving up, but the structural composition of society remains the same” (*ibid.*, 475). This means that while the role of the state may be more active, resource revenues stay concentrated in the hands of the elite—while the state apparatus is legitimized by a narrative of bringing growth and development (*ibid.*, 470-471). Comparing the different countries in the region, what becomes clear is that the “consequences of extraction seem very similar regardless of the political project or ideological model” and that—even when having increased shares— “the distributional effects are similar. Value is taken from certain spaces and distributed to others” (Bebbington and Humphreys Bebbington, 141-142).

2. Questions of Justice in Struggles over Natural Resources

The extraction of resources—as a development model, as well as the concrete projects of extracting natural gas, oil, metal, water, and the like—are heavily contested, inciting a broad range of protests and also violent conflicts too (Bebbington and Bury 2013; Castro, Hogenboom, and Baud 2016; Engels and Dietz 2017). Extractive frontiers have expanded during the past few decades, producing new and diverse zones of encounter (Peluso and Lund 2011) and introducing new controversial technologies such as fracking (Svenja Schöneich in this issue). Extraction concerns “traditional” resources and the profound environmental, social, and cultural imprints that it leaves on the areas where it takes place (Alonso Burgos Cisneros, and interviews with indigenous leaders in this issue). What is more, extraction projects further include new resources such as Lithium in Bolivia or the wind energy (Carolina Sánchez de Jaeger in this issue). The common characteristic of conflicts over these diverse resource-extraction projects is a fundamental structural asymmetry: Resource exploitation creates economic wealth on the national level, while the negative impacts concentrate in the actual sites of extraction. This means that, as a result of heavy extraction, communities are heavily affected, receiving little in the way of compensation, while their members are not employed by the related companies either (Martinez-Alier 2003).

As noted before, the contributions to this special issue focus on contestation and conflict in the context of resource extraction, and are part of the increasing documentation of socioenvironmental conflicts both in Latin America (Thomssen, Sauß, and Stockmar 2014) and on the global level. The participatory and openly accessible online Atlas of Environmental Justice (EJOLT) has made a major contribution to this. As the annual reports of the nongovernmental organization Global Witness (2016) clearly suggests, environmental conflicts in Latin America have become increasingly more violent in the past few years. As part of these conflicts, the clash between indigenous peoples and government forces in the northern Peruvian Amazon, close to the city

of Bagua, in June 2009 left 33 people dead. This has been the most violent incident in the region to date. Peruvian indigenous organizations and the civil society still commemorate these events every year, believing that the state representatives have to take responsibility for what happened (Quispe 2018). Two factors connect this particular conflict with other ones in Latin America: First, indigenous peoples and their territories are overly affected by resource extraction and their expanding frontiers (Anaya 2011). Second, the lack of participation of the locally affected population was one of the key reasons for the protests in Peru 2009; dozens of governmental decrees were issued that restricted collective rights without the prior consultation of indigenous peoples (Hughes 2010; Merino Acuña 2015).

Questions of justice related to resource-extraction projects have steadily emerged in political discourses as well as in the academic literature as the most prominently highlighted works by the academic and activist movement(s) for “environmental justice”—as well as in the disciplines of Political Ecology, Political Science, Critical Legal Anthropology, Socio-Legal Studies, and Geography (Burchardt and Dietz 2014; Gilberthorpe and Rajak 2017; Haarstad 2012). Asymmetries in patterns of access to resources, in the distribution of benefits and of negative impacts, as well as different epistemological understandings of water and territory are reasons for contestation and conflict, which are often expressed as claims for participation, land tenure, the monitoring and mitigation of impacts, and compensation payments. Therefore, institutional arrangements and legal regulations sustained by the “good governance” discourses are often presented as solutions to these highly political problems (Doyle and Whitmore 2014; Falleti and Riofrancos 2018).

3. Laws of Extraction: Instrument of Dispossession or Resistance?

The use of law in conflicts related to resource extraction is ambiguous. On the one hand, legal strategies complement the repertoires of resistance against imposed projects or in support of claims for compensation and benefit sharing.

Law and rights carry promises of participation, decision-making power, and respect for local communities, and are a common point of reference in struggles from below. Grassroots activists can and do invoke international and national standards in order to validate their claims. Local communities, indigenous groups, and environmental activists refer to national—and more often to international—instruments of law, such as the 2007 United Nations Declaration on the Rights of Indigenous Peoples. These references can be used to form political alliances between communities, activists, lawyers, and progressive-minded state personnel.

At the same time, legal claims have led to judicial processes in domestic as well as regional courts. Especially, the Inter-American Court of Human Rights and the Commission of Human Rights have become important sites of struggle—and their existence has resulted in landmark rulings regarding governments' duty to seek the free, prior, and informed consent (FPIC) of indigenous peoples before starting an extraction project (Doyle 2015; Rombouts 2014). However, the implementation of these legal decisions depends on the political will of the state government, and, indeed, the capacity of civil society to hold governments accountable. Special consideration has to be further given to what legal anthropologists call "legal pluralism." Indigenous peoples have their own worldviews and systems of law, which are not necessarily written down as national legislation and respected by governments. Most importantly, the concepts underpinning indigenous peoples' territories are much more holistic than formal land rights, property regulations, and the notion of the ownership of resources can grasp (Benda-Beckmann, Benda-Beckmann, and Eckert 2009; Kirsch 2012).

On the other hand, state governments and private companies can, simultaneously, use legal or administrative arrangements in order to legitimize the dispossession of communal lands. Many Latin American governments have established participatory rights in resource extraction due to claims from civil society and also from powerful institutions of development cooperation, such as the World Bank. Public participation has been extensively implemented

since the 1990s. A major push for these policies has come from the environmental sector, leading to a participatory turn in the 1990s. From the private sector, corporate social responsibility (CSR) has been promoted on the global level and resulted in the UN's CSR guidelines highlighting companies' duty to respect human rights and implement participatory processes (United Nations 2011; UN High Commissioner for Human Rights 2012). In the same vein, mechanisms of prior consultation and FPIC have emerged as project standards, for example in the World Bank's work (Goodland 2004; Sarfaty 2004) or in that of extractive industries (Laplante and Spears 2008; Sohn 2007; Zillman, Lucas, and Pring 2002).

The implementation of participatory mechanisms and CSR instruments have been heatedly debated (Cooke and Kothari 2001; Hickey and Mohan 2004). Promoted by policymakers as instrument of empowerment, critics have pointed out that narrow participatory mechanisms are used to legitimize imposed projects without giving the people consulted a real say in the process of making decisions that affect their lives. Empirical studies, meanwhile, have found evidence of "divide and rule strategies," for example by providing gifts or promising support for community projects (Flemmer and Schilling-Vacaflor 2016; Schilling-Vacaflor, Flemmer, and Hujber 2018). Important to note is that communities often have to fight on a "double front," because the state and companies form alliances and public-private partnerships can lead to institutional capture, which undermines both the neutrality of the state and its capacity to protect indigenous communities (Sawyer and Gomez 2008).

What becomes clear is that the real impact of legal instruments on the protection of community rights is a question of context, and as such it requires analysis of the subnational level (Fontana and Grugel 2016; Leifsen et al. 2017; Rodríguez-Garavito 2011). Every interpretation of a right defines "who is entitled to what" (Sawyer and Gomez 2008). Therefore, the interpretation and implementation of rights also constitute fields of struggle, in an uneven playing field of alliances formed between the state and private companies against local populations.

The importance of analyzing how an affected population can exercise rights in concrete cases has been highlighted within a number of different academic fields, for example by research on norm contestation in International Relations (Foster 2014; Wiener 2008, 2014; Zimmermann 2016; Zwingel 2012), the anthropology of human rights (Goodale 2007; Levitt and Merry 2009; Merry 2006), the “law from below” perspective articulated by postcolonial scholars (Eckert et al. 2012; Santos and Rodríguez-Garavito 2005), and by studies on environmental justice in Political Ecology (Boelens, Perreault, and Vos 2018). This opens up a rich space for interdisciplinary discussion and collaboration going forward.

4. Contributions to This Issue

The present bilingual special issue, entitled *The Laws of Extraction – Environmental Rights and Legal Regulations in Struggles over Natural Resources in the Americas/Las Leyes de Extracción – Derechos Ambientales y Regulaciones Legales del Acceso a los Recursos Naturales en las Américas*, presents contributions from Political Sciences, Sociology, and Anthropology, together with interviews held with indigenous leaders in order to highlight different aspects of the role of law in conflicts over resource extraction. Throughout the issue, cases from Bolivia, Chile, Mexico, and Peru receive special attention.

To begin, **Alonso Burgos Cisneros** (Instituto de Estudios Políticos Andinos, Peru) depicts the power of a mining company in pressuring the state to lower environmental standards in the conflict occurring between the government, the company, and local actors in the central Andes of Peru over the La Oroya smelter. This analysis is done from a social movement perspective. As Cisneros’ paper contends, La Oroya is a key case for understanding the dynamics and contradictions in mining conflicts, both in Peru and beyond. The political conflict is particularly interesting here because despite the extremely negative consequences—La Oroya is among the most contaminated place on earth—local populations still insist that the activities go on. They have even been mobilized by some

company representatives to pressure the state into lowering environmental standards and making exceptions to the necessary compliance with environmental obligations. Based on rich empirical material on local micropolitics, the article analyzes and compares different frames of collective action to understand the local dynamics—which divide those who defend the environment and health of the local population from those who defend their right to work and the economic benefits of the metallurgical activities present in the region. At the same time, it further demonstrates how these forces interact with national, political decision-making. Conceptually, the article brings together tools of social movement analysis with the literature on the “environmentalism of the poor” (Martinez-Alier 2003) in order to powerfully demonstrate the contradictions and local conflicts created between different groups of people that economically depend on a business that might, nevertheless, disrupt their physical well-being.

Carolina Sánchez de Jaegher (University College Roosevelt, Netherlands), analyzes the contradictions between environmental discourses about green energy and indigenous concepts of “*buen vivir*” (“good life”) in the Mapuche-Valdivian resistance against the wind farm Pililín, in the south of Chile. Here, a postcolonial approach and a critique of “green capitalism” are utilized. Sánchez de Jaegher uses the epistemologies of the South (Santos 2008, 2014), combined with the concepts of epistemological resistance (Medina 2013) and forms of “*sentipensar*” (Escobar 2014) to embed her in-depth analysis of this ethnopolitical and environmental struggle. She shows how the global framework of green capitalism dictates the national Chilean political agenda, and demonstrates how this logic subordinates national laws on development/energy planning and even international laws such as the ILO C169—which, in principle, should protect indigenous peoples’ rights. Based on ethnographic material, the article engages with the Mapuche worldview and explains their understanding of concepts such as “*buen vivir*” (*Küme Mogen*), “Mother Earth” (*Mapu or Yuque Mapu*), and the “spirit of the wind” (*Geñin Kürrüf*). Empirically, the Chilean case has not received much attention in the

scholarly literature on neo-extractivism; Sánchez de Jaegher's contribution demonstrates, then, also how the South American state of Chile uses legal mechanisms to legitimize projects such as wind parks to be launched on indigenous land. Especially, the detailed engagement with indigenous understandings of risk is an important contribution to the literature.

In a paper entitled "Ambiguities of Oil – Changes in the risk perceptions on the local level induced by Mexico's energy reform" ("Ambigüedades del Petróleo – Cambios de percepción de riesgo al nivel local por la Reforma Energética Mexicana"), **Svenja Schöneich** (GIGA German Institute of Global and Area Studies, Hamburg), delivers an ethnographic study on the ambiguities of oil extraction in the rural community of Emiliano Zapata, on the Gulf Coast, during Mexico's energy reform of 2013/14. Structures of community life are deeply entangled with the government-owned oil company; the community, the paper argues, is now confronted with the departure of the state company, the arrival of new subcontractors, as well as with rumors about new, high-risk extraction techniques like fracking. This combination of a major legal change opening up the state monopoly in Mexico's oil industry has caused ruptures in the established means of risk management, resulting in a state of "toxic uncertainty" (Auyero and Swistun 2008). Despite no material changes in the extraction practices themselves, the discursive shifts, the presence of new companies, misinformation, as well as a lack of rules regarding how to deal with local damage have led community members to live with a heightened sense of uncertainty and in a state of permanent confusion about the causes and effects of contamination. This scenario of disentanglement and rupture, analyzed on the basis of eleven months of fieldwork conducted variously between 2016 and 2018, represents a major empirical contribution as it sheds light on a "post-boom" that has received little attention in the scholarly literature to date.

Interviews with the indigenous leaders **Alfonzo Guzman** from the Assembly of Guaraní People (Asamblea del Pueblo Guaraní, APG, Bolivia) and **Ruth Buendía** from the Asháninka Central of the Ene River (Central Asháninka del

Río Ene, CARE, Peru) form the final contribution to this special issue. The two leaders were interviewed about their perspectives on indigenous participation in resource governance by researchers **Almut Schilling-Vacaflo** (University of Osnabrück, Germany) and **Riccarda Flemmer** (GIGA German Institute of Global and Area Studies, Hamburg, Germany) during the course of the workshop on "Indigenous Environmental Governance: Strategies and Struggles for Safeguarding the Future," held at Stockholm University in November 2017. The key question posed in these interviews is: Which state-led participation mechanisms did the indigenous leaders perceive to be an effective means to influence decisions about the extraction of natural resources in their territories? Both indigenous leaders and their organizations have ample experience with conflicts over resource-extraction projects. Guzman's Guaraní organization, APG, has mainly influenced the conduction of prior consultations, negotiations about compensation payments, and the installation of effective socio-environmental monitoring in Bolivia. Buendía and her own organization, CARE, are meanwhile upholding their resistance to a hydrocarbon block as well as to a hydroelectric dam with reference to the Asháninka way of living well (*Kametsa Asaike*), while demanding also the creation of a self-governed "intercultural district" to exercise political autonomy. The detailed insights on the range of mechanisms of public participation, indigenous monitoring of state and company activities, the formulation of own development plans, and the institutionalization of self-governance complement the academic works contained in this issue of *fiar* with the practical experiences of using legal and informal mechanisms in indigenous peoples' everyday struggles.

Works Cited

- Anaya, James. 2011. "Report to the Human Rights Council (Summary of activities. Extractive industries operating within or near indigenous territories)." A/HRC/18/35. <http://unsr.jamesanaya.org/docs/annual/2011-hrc-annual-report-a-hrc-18-35-en.pdf>. Accessed July 07, 2014.

- Bebbington, Anthony, and Jeffrey Bury, eds. *Subterranean Struggles: New Dynamics of Mining, Oil, and Gas in Latin America*. Austin: U of Texas P, 2013. Print.
- Bebbington, Anthony, and Denise Humphreys Bebbington. "An Andean Avatar: Post-Neoliberal and Neoliberal Strategies for Securing the Unobtainable." *New Political Economy*, vol. 16, no. 1, 2011, pp. 131-145.
- Benda-Beckmann, Franz v. "Legal Pluralism and Social Justice in Economic and Political Development." *IDS Bulletin*, vol. 32, no. 1, 2001, pp. 46-56.
- Benda-Beckmann, Franz v., Keebet v. Benda-Beckmann, and Julia M. Eckert. "Rules of Law and Laws of Ruling: Law and Governance between Past and Future." In *Rules of Law and Laws of Ruling: On the Governance of Law*, edited by Franz v. Benda-Beckmann, Keebet v. Benda-Beckmann, and Julia M. Eckert, 1-30. New York: Ashgate, 2009. Print.
- Boelens, Rutgerd, Tom Perreault, and Jeroen Vos, eds. *Water Justice*. New York: Cambridge UP, 2018. Print.
- Burchardt, Hans-Jürgen, and Kristina Dietz. "(Neo-) extractivism – a new Challenge for Development Theory from Latin America." *Third World Quarterly*, vol. 35, no 3, 2014, pp. 468-86.
- Castro, Fábio de, Barbara Hogenboom, and Michiel Baud, eds. *Environmental Governance in Latin America*. London: Palgrave Macmillan UK, 2016. Print.
- Cooke, Bill, and Uma Kothari, eds. *Participation: the New Tyranny?* London: Zed Books, 2001. Print.
- Doyle, Cathal M. *Indigenous Peoples, Title to Territory, Rights and Resources: The Transformative Role of Free Prior and Informed Consent*. 1st published. Routledge Research in Human Rights Law. New York: Routledge, 2015. Print.
- Doyle, Cathal M., and Andrew Whitmore. *Indigenous peoples and the extractive sector: Towards a rights-respecting engagement*. Baguio City, Philippines: Tebtebba Foundation, 2014. Print.
- Eckert, Julia, Brian Donahoe, Christian Strümpel, and Zerrin Özlem Biner, eds. *Law against the State: Ethnographic Forays into Law's Transformations*. Cambridge: Cambridge UP, 2012. Print.
- Engels, Bettina, and Kristina Dietz, eds. *Contested Extractivism, Society and the State: Struggles over Mining and Land*. London: Palgrave Macmillan, 2017. Print.
- Escobar, Arturo. *Sentipensar con la tierra. Nuevas lecturas sobre desarrollo, territorio y diferencia*. Medellín: Ediciones UNAULA, 2014. Print.
- Falleti, Tulia G., and Thea Riofrancos. "Endogenous Participation: Strengthening Prior Consultation in Extractive Economies." *World Politics*, vol. 70, no. 1, 2018, pp. 86-121.
- Flemmer, Riccarda, and Almut Schilling-Vacaflo. "Unfulfilled Promises of the Consultation Approach: The Limits to Effective Indigenous Participation in Bolivia's and Peru's Extractive Industries." *Third World Quarterly*, vol. 37, no. 1, 2016, pp. 172-188.
- Fontana, Lorenza B., and Jean Grugel. "The Politics of Indigenous Participation Through Free Prior Informed Consent: Reflections from the Bolivian Case." *World Development*, vol. 77, 2016, pp. 249-261.
- Foster, Laura A. "Critical Cultural Translation: A Socio-Legal Framework for Regulatory Orders." *Indiana Journal of Global Legal Studies*, vol. 21, no. 1, 2014, pp. 79-105.
- Galeano, Eduardo. (1971) 2010. *Las venas abiertas de América Latina*. 6. Edition. Madrid: Siglo XXI de España Editores, 2010. Print.
- Gilberthorpe, Emma, and Dinah Rajak. "The Anthropology of Extraction: Critical Perspectives on the Resource Curse." *Journal of Development Studies*, vol. 53, no. 2, 2017, pp. 186-204.
- Global Witness. 2016. *On Dangerous Grounds*. London: Global Witness. <https://www.globalwitness.org/en/reports/dangerous-ground/>. Accessed October 10, 2016.
- Goodale, Mark. "Introduction: Locating Rights, Envisioning Law Between the Global and the Local." In *The Practice of Human Rights: Tracking Law between the Global and the Local*, edited by Mark Goodale and Sally E. Merry, 1-38. Cambridge: Cambridge UP, 2007. Print.
- Goodland, Rober. "Free, Prior and Informed Consent and the World Bank Group." *Sustainable Development Law and Policy*, vol. 66, no. 4, 2004, pp. 66-74.
- Gudynas, Eduardo. 2009. "Diez tesis urgentes sobre el nuevo extractivismo. Contextos y demandas bajo el progresismo sudamericano actual." In *Extractivismo, política y sociedad*, edited by Jürgen Schuld, Alberto Acosta, Alberto Barandiarán, Anthony Bebbington, Mauricio Folchi, Cedla Bolivia, Alejandra Alayza, and Eduardo Gudynas, 187-225. Quito: CAAP (Centro Andino de Acción Popular); CLAES (Centro Latino Americano de Ecología Social).
- Haarstad, Håvard. "Extracting Justice? Critical Themes and Challenges in Latin American Resource Governance." In *New Political Spaces in Latin American Natural Resource Governance*, edited by Håvard Haarstad, 1-16. New York: Palgrave Macmillan, 2012. Print.
- Hickey, Samuel, and Giles Mohan, eds. *Participation-From Tyranny to Transformation? Exploring New Approaches to Participation in Development*. London: Zed Books, 2004. Print.
- Hughes, Neil. "Indigenous Protest in Peru: The 'Orchard Dog' Bites Back." *Social Movement Studies*, vol. 9, no. 1, 2010, pp. 85-90.
- Kirsch, Stuart. "The Juridification of Indigenous Politics." In *Law against the State: Ethnographic Forays into Law's Transformations*, edited by Julia Eckert, Brian Donahoe, Christian Strümpel, and Zerrin Özlem Biner, 23-43. Cambridge: Cambridge UP, 2012. Print.

- Laplante, Lisa J., and Suzanne A. Spears. "Out of the Conflict Zone: The Case for Community Consent Processes in the Extractive Sector." *Yale Human Rights and Development Law Journal*, vol. 11, no. 1, 2008, pp. 69-116.
- Leifsen, Esben, Maria-Therese Gustafsson, Maria A. Guzmán-Gallegos, and Almut Schilling-Vacaflor, eds. "New Mechanisms of Participation in Extractive Governance: Between Technologies of Governance and Resistance Work." Special issue, *Third World Quarterly*, vol. 38, no. 5, 2017.
- Levitt, Peggy, and Sally E. Merry. "Vernacularization on the Ground: Local Uses of Global Women's Rights in Peru, China, India and the United States." *Global Networks*, vol. 9, no. 4, 2009, pp. 441-61.
- Martinez-Alier, Juan. *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*. Cheltenham: Edward Elgar Publishing Ltd, 2003. Print.
- Martínez-Alier, Joan, and Mariana Walter. "Social Metabolism and Conflicts over Extractivism." In *Environmental Governance in Latin America*, edited by Fábio de Castro, Barbara Hogenboom, and Michiel Baud, 58-85. London: Palgrave Macmillan UK, 2016. Print.
- Medina, José. *The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and Resistant Imaginations*. Studies in feminist philosophy. New York: Oxford UP, 2013. Print.
- Merino Acuña, Roger. "The Politics of Extractive Governance: Indigenous Peoples and Socio-environmental Conflicts." *The Extractive Industries and Society* vol. 2, no. 1, 2015, pp. 85-92.
- Merry, Sally E. *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: U of Chicago P, 2006. Print.
- Peluso, Nancy L., and Christian Lund. "New frontiers of land control: Introduction." *Journal of Peasant Studies*, vol. 38, no. 4, 2011, pp. 667-81.
- Quispe, Juan J. 2018. "A 9 años del Baguazo." <https://www.servindi.org/actualidad-opinion/05/06/2018/9-anos-del-baguazo>. Accessed October 01, 2018.
- Rodríguez-Garavito, César A. "Ethnicity.gov: Global Governance, Indigenous Peoples, and the Right to Prior Consultation in Social Minefields." *Indiana Journal of Global Legal Studies* vol. 18, no. 1, 2011, pp. 263-305.
- Rombouts, Sebastiaan J. *Having a Say: Indigenous Peoples, International Law and Free, Prior and Informed Consent*. Eindhoven: Wolf Legal Publishers, 2014. Print.
- Santos, Boaventura d. S., ed. *Another Knowledge is Possible: Beyond Northern Epistemologies*. Reinventing Social Emancipation Volume 3. London: Verso, 2008. Print.
- Santos, Boaventura d. S. *Epistemologies of the South: Justice against Epistemicide*. London: Routledge, 2014. Print.
- Santos, Boaventura d. S., and César A. Rodríguez-Garavito, eds. *Law and Globalization from Below: Towards a Cosmopolitan Legality*. Cambridge: Cambridge UP, 2005. Print.
- Sarfaty, Galit A. 2004. "The World Bank and the Internalization of Indigenous Rights Norms." *Yale Law Journal*, vol. 114, 2004, pp. 1791-1817.
- Sawyer, Suzana. *Crude Chronicles: Indigenous Politics, Multinational Oil, and Neoliberalism in Ecuador*. American Encounters/Global Interactions. Durham: Duke UP, 2004. Print.
- Sawyer, Suzana, and Edmund T. Gomez. "Transnational Governmentality and Resource Extraction. Indigenous Peoples, Multinational Corporations, Multilateral Institutions and the State." Identities, Conflict and Cohesion Programme Paper 13. 2008. Print.
- Schilling-Vacaflor, Almut, Riccarda Flemmer, and Anna Hujber. "Contesting the Hydrocarbon Frontiers: State Depoliticizing Practices and Local Responses in Peru." *World Development*, vol. 108, 2018, pp. 74-85.
- Sohn, Johnathan, ed. *Development Without Conflict. The Business Case for Community Consent*. Washington D.C.: World Resources Institute (WRI), 2007. Print.
- Svampa, Maristella. "Commodities Consensus: Neoeextractivism and Enclosure of the Commons in Latin America." *South Atlantic Quarterly*, vol. 114, no. 1, 2015, pp. 65-82.
- Thomssen, Ines, Marie Sauß, and Ellen Stockmar. 2014. "Rohstoffausbeutung in Lateinamerika." <https://www.boell.de/de/2014/05/14/rohstoffausbeutung-lateinamerika>. Accessed October 08, 2018.
- United Nations. 2011. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. HR/PUB/11/04. New York/ Geneva. http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. Accessed October 10, 2018.
- United Nations High Commissioner for Human Rights. 2012. *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide: HR/PUB/12/02*. New York/ Geneva. <http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>. Accessed October 01, 2018.
- Wiener, Antje. *The Invisible Constitution of Politics: Contested Norms and International Encounters*. Cambridge: Cambridge UP, 2008. Print.
- Wiener, Antje. *Theory of Contestation*. Heidelberg: Springer, 2014. Print.
- Zillman, Donald N., Alastair R. Lucas, and George W. Pring, eds. *Human Rights in Natural Resource Development: Public Participation in the Sustainable Development of Mining and Energy Resources*. Oxford: Oxford UP, 2002. Print.

- Zimmermann, Lisbeth. "Same Same or Different? Norm Diffusion Between Resistance, Compliance, and Localization in Post-conflict States." *International Studies Perspectives*, vol. 17, 2016, pp. 98-115.
- Zwingel, Susanne. "How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective." *International Studies Quarterly*, vol. 56, no. 1, 2012, pp. 115-29.

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