

## Response to Marcela Torres Wong

By Maiah Jaskoski\*

My recent book, *The Politics of Extraction: Territorial Rights, Participatory Institutions, and Conflict in Latin America*, identifies and explains ways that communities impacted by extraction use available participatory institutions, by analyzing thirty major hydrocarbon and mining conflicts that unfolded in Bolivia, Colombia, and Peru during the 2000s and 2010s. In some cases, communities mobilize through institutions, in accordance with formal participatory procedures. In other cases, they organize “around” or “in reaction to” the institutions: they interfere with or refuse to participate in the participatory process, contest the legitimacy of the process after the fact, or take direct action to demand to be included.

I appreciate the praise of and comments on the book that Torres Wong offers. As part of this conversation about participatory institutions and extractives in Latin America, I am pleased to respond to her comments, which center on my selection of certain participatory institutions and not others, my classification of community strategies, and my emphasis on the project level when assessing community power in extractives.

With regard to the institutions that structure community behavior, Torres Wong asks why for the case of Peru, my framework omits “popular consultation” (a kind of referendum) when, as I stress in Chapter 6, informal popular consultations proved highly influential in the Peruvian Río Blanco and Tambo Grande mining conflicts. Torres Wong also encourages extending my treatment of prior consultation—in which the state consults impacted Indigenous communities about new development, consistent with the International Labour Organization’s 1989 Indigenous and Tribal Peoples Convention (ILO 169). Specifically, she suggests that I incorporate community uses of the prior consultation norm before it was regulated. As she summarizes nicely, Indigenous people in several countries rose up powerfully in struggles over how prior consultation would be institutionalized at the national level (see also Chapter 3).

My book seeks to understand community uses of *regulated participatory institutions that operate formally in hydrocarbons and mining*. Using these criteria, I analyze prior consultation in the three countries, the informational public hearing on environmental impact studies (EIA) in Colombia and Peru, and the Colombian popular

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consultation. I studied regulated participation in extractives for several reasons. First, I wanted to engage directly the literature on participation in hydrocarbons and mining, a body of work that devotes substantial attention to the role of formal EIA hearings and prior consultations. Second, with few exceptions, the relevant participatory processes took place only after regulation, as noted in Chapter 3.

Third and finally, to detect and explain how communities harnessed available participatory institutions in extractives as designed and also in unintended ways, I needed to ascertain (a) the recognized participatory procedures in extractives, and (b) whether communities acted in accordance with those rules. I achieved this clarity by selecting regulated institutions. In contrast, the popular consultation in Peruvian mining—a process that was not institutionalized, even informally (Walter and Urkidi, 2017)—did not secure crucial support from national elections officials. Operating without broad acceptance, the consultation thus lacked potential as an institution that communities might employ in different ways in mining or hydrocarbons.

Irrespective of these reasons for examining formal institutions in the two sectors, it is invaluable to ask, as Torres Wong does, how including the Peruvian popular consultation as a key organizing participatory institution might have affected my analysis. The addition would have reinforced my findings. My framework reveals that if participation took place only by request, communities were limited to a single use of institutions: asking for and then participating in participatory processes. Colombian conflicts in which the EIA hearing or popular consultation was relevant exhibited this pattern. Río Blanco and Tambo Grande did, too, if we classify as “request processes” the complex and not widely recognized steps activists took to hold the informal consultations in these cases.

In conjunction with her remarks about my selection of participatory institutions, Torres Wong submits that the book could have comprised more categories of community organizing around the institutions. She points in particular to autonomous community deliberations that may take place in response to state-led participatory processes. Community deliberations indeed are important but nested within broader strategies that I uncover in the book. A conflict over an expansion of the Colombian Cerrejón mine offers one example. The overall approach of anti-project communities in that case was to refuse to participate in prior consultation meetings. Consistent with this strategy, they articulated a need to conduct a traditional internal reflection process before they could converse with the state about the expansion. In another Colombian mining conflict, over the Mandé Norte mine, Indigenous communities challenged the legitimacy of a completed prior consultation that had omitted their leaders. The communities disparaged the consultation in different ways, including through a successful court battle but also by holding an informal popular vote as a kind of substitute for the withheld prior consultation.

More generally, communities creatively organized through and around participatory institutions in the conflict sample. In Peru, communities devised a plan to boycott an EIA hearing for the development of a natural gas field, independent of their influential NGO and Catholic Church allies. Colombian organizers presented their own EIA at a public hearing for oil exploration, to dispute the content of the company document. Communities in Bolivia delayed prior consultation for a gas project across several years by insisting on being consulted by the company that led the project and not, as regulations mandated, by the hydrocarbon ministry.

Torres Wong's final comments pertain to the level of analysis at which I approach community power in hydrocarbons and mining. *The Politics of Extraction*, like Torres Wong's own book and other research on participation and conflict in extractives, focuses on the fate of projects. In most of the thirty conflicts in my book, communities achieved the goals for which they most visibly organized. Those objectives ranged from project cancellation to the mitigation of past environmental harms to compensation promises. Yet Torres Wong questions the significance of project-level victories and suggests that in the future, participatory institutions may offer communities the ability to trigger and/or participate in higher-level policy change. Like Torres Wong, I defer to future work to follow the continued evolution of participation and extraction in Latin America and to identify if, when, and how, such an outcome materializes. For instance, scholars might explore further prior consultation in extractives, but in the legal arena, given that ILO 169 and multiple national prior consultation frameworks in the region require the state to consult Indigenous communities about legislation that impacts them. 

#### REFERENCE

Walter, Mariana and Leire Urkidi (2017), "Community Mining Consultations in Latin America (2002-2012): The Contested Emergence of a Hybrid Institution for Participation", *Geoforum*, 84, pp. 265-279.