

Response to Maiah Jaskoski

By *Marcela Torres Wong**

The generous review that Maiah Jaskoski makes of *Natural Resources, Extraction and Indigenous Rights in Latin America: Exploring the Boundaries of Environmental and State-Corporate Crime in Bolivia, Peru and Mexico*, quite accurately captures the main objectives of the book. In her words, my aim is finding out whether prior consultation prevents development and/or generates compensation for impacted communities in Bolivia, Mexico, and Peru. In this regard, I would like to make a precision. In the book I do not take development for granted. On the contrary, I emphasize alternative development models that derive from non-extractive decisions.

The diverse and contrasting meanings of development have been underscored in international and national forums by indigenous activists and global environmentalists (Escobar, 1995), two sectors that fought most fiercely to make prior consultation a reality in Latin America. During the 2000s when extractive conflicts thrived, indigenous movements across Latin America articulated a powerful environmental discourse targeting the extractive industry as the main driver of water pollution, biodiversity loss, and damage to indigenous societies. In discourse, there was an overlap between indigenous rights and the protection of nature, and with this, a vocal demand for extractive industries to stop operations in fragile indigenous ecosystems. In looking at the discourse that accompanied extractive conflicts during the time it took for Latin American countries to implement prior consultations, one of my main aims when I began fieldwork in 2013, was to explore whether prior consultations served to halt extractive projects.

Nevertheless, the book does seek to problematize the validity of this discourse *vis à vis* the contrasting and complex realities indigenous communities face on a daily basis. During the two years I spent in the field visiting indigenous communities in Bolivia, Peru, and Mexico, it was evident that, while some communities were able to remain united in an anti-extractivist stance, most were divided over complying with the extractivists. The inequalities that define the Latin American landscape also permeate most rural communities, as in any community. Some groups see the extractive industry as a source of economic improvement and others see it as potentially destructive of their environment. Overall, I underline indigenous heterogeneity, internal division, and the critical economic situation in which


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many pro-extractivist groups live as reasons pressuring them to accept ecologically unsustainable projects.

The book does suffer from a selection bias, as Maiah Jaskoski rightly points out. One reason for this is that I concluded fieldwork in July 2015. At the time, there was a lack of systematic information on prior consultation procedures and I had to draw upon newspapers and interviews with indigenous rights advocates to reach the cases, which is how I began to observe the pattern that I explain in the book. This, of course, weakens the explanatory power of the study. There is also a gap in the information available from when I began the fieldwork in 2013 and when I began writing the book in 2017. Hopefully, this explains why I chose some cases over others. Still, in 2015, the Peruvian government created a database on prior consultations that revealed that every case of prior consultation conducted by the government ended in approval of projects (Ministry of Culture of Peru n.d.). In Bolivia, government efforts to systematize prior consultations have been even weaker and we still lack sufficient information about these procedures. However, in Mexico, in 2019, a report by the Due Process of Law Foundation, summarizing all prior consultations in the country, also showed that most of these procedures concluded in approval (Gutiérrez and Del Pozo, 2019).

Jaskoski raises another important point: if a community does not consider itself Indigenous, as in Cerro San Pedro in San Luis Potosí, might it view prior consultation as irrelevant? Such a perception, the argument goes, could affect community strategies and, ultimately, the outcomes of interest of the study. This deserves further research. However, there are communities that do not self-identify as indigenous and therefore do not use prior consultation, and even so, detain projects through social mobilization and protest, as Jaskoski herself shows in her book. Nevertheless, more research in this regard would enrich this discussion.

A final comment about the selection of Capulalpam de Méndez and Chetilla, two communities that faced different prior consultation structures as there were no prior consultation laws in place in either Mexico or Bolivia when their conflicts began. I would argue that prior consultation has been mandatory since the 1990s and indigenous communities demanded this right long before it became legally regulated. What these two cases show is that to stop projects, communities do not need to be consulted. I argue that this continues to be the case, even with legislation in force. This accounts for why, in Mexico, there is a debate among anti-extractivist sectors about the convenience of a national law on prior consultation. We have more information today than back in 2013, although much is still missing, as several countries continue to lack official databases on prior consultation procedures. Future research, no doubt, will continue enlightening the outcomes of prior consultation. But for now, anti-extractivist movements should find other mechanisms different to prior consultation, to attain their goals. 

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