

Maiah Jaskoski, *The Politics of Extraction: Territorial Rights, Participatory Institutions, and Conflict in Latin America*, New York, Oxford University Press, 2022, 296 p.

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During the 2000s the rise of extractive conflicts, following the lead of indigenous movements, had unprecedented influence on national politics in several parts of Latin America. Over the last decade, governments have responded to protest with institutional innovations aimed at including the voice of indigenous communities in decision-making over their territories. This new institutional scenario has given rise to a prolific field of study centered on participatory institutions in extractive conflicts.

The bulk of the literature has focused on the indigenous right to prior consultation, which obligates all postcolonial states to consult indigenous peoples before undertaking any project on their land (Gustafsson and Schilling-Vacaflor, 2022; Falletti and Riofrancos, 2018; Merino, 2018). These studies emphasize the failure of indigenous engagement with the state due to the power asymmetries resulting from the disparate influence of extractive companies on national politics. Scholars argue that indigenous peoples are mostly “invited” to participate and have little control on final decisions (Gustafsson and Schilling-Vacaflor, 2022). These findings also apply to other participatory mechanisms such as environmental impact assessments, territorial planning, or social impact assessments which are also useless to halt controversial projects due to environmental reasons (Guarnero-Meza and Zaremberg, 2019; Leifesen *et al.*, 2018). Overall, these studies seem to support the argument that participatory institutions have been domesticated by states and extractive companies (Poweska, 2017).

The Politics of Extraction: Territorial Rights, Participatory Institutions, and Conflict in Latin America by Maiah Jaskoski comes at a key moment in which legal activists and indigenous organizations are reformulating their demands to achieve better results in the protection of indigenous territories (Cerqueira, 2020; Gómez, 2013). In light of the failure of formal indigenous participation to stop extraction on ecologically fragile lands (Torres-Wong, 2018), legal advocates now emphasize self-determination and autonomy over prior consultation. However, could participatory institutions offer more optimistic results for indigenous peoples’ organizations and territories? Would a closer examination of how these institutions operate in the heat

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of conflict reveal variations in the way indigenous communities engage with them? More important, what are the challenges that indigenous communities face and what strategies are these groups developing to cope with power asymmetries?

Jaskoski analyses thirty extractive conflicts from the standpoint of local communities facing the challenge of participating through three mechanisms prior consultation, popular consultation, and environmental impact assessment. She draws upon research on participatory institutions in Latin America, revealing how civil society, institutional design, and state characteristics affect citizen participation and influence policy making. She expands on this to address not only formal, institutional participation, but also how people mobilize around this. Jaskoski identifies the conditions under which communities act in accordance with institutional procedures or, alternatively, organize outside of them.

By focusing on indigenous strategies developed in reaction to participatory institutions, the author identifies variations in the way indigenous communities use the three instruments to their benefit. The author finds that most cohesive and organized communities are not always driven by ecological concerns aimed at halting extractive projects. Some of these communities choose to participate in formal participatory procedures to influence the way in which projects are undertaken and to obtain a fair compensation from extraction. Contradicting the institutional change literature, the author also finds that even when some communities face less ambiguity in procedures and have a stronger guarantee of participation, this does not lead to a by the book use of formal institutions. Conversely, her cases show that some groups organize outside of, rather than through, available participatory institutions, specifically by interrupting participatory events or refusing to participate.

The author identifies three “challenges” affecting how indigenous communities use participatory institutions. The “event initiation challenge” names disputes over which government level has jurisdiction over matters regarding natural resources in the subsoil. To confront this challenge, local communities contest the delineation of the subnational authority *vis à vis* the central state’s jurisdiction, to begin a participatory process.

These disputes demonstrate the potential of participation. Who controls natural resources in the subsoil is at the heart of Latin America’s extractive conflicts. Constitutional reforms in countries like Bolivia and Ecuador, despite being progressive in terms of indigenous rights, have preserved laws granting this control to central governments. The fact that such enduring regulations are contested through participation, sometimes successfully, evinces the capacity of these mechanisms to inject substantive transformations into extractivist national frameworks.

A second challenge, “the inclusion challenge” concerns who experiences the impact of extractive development. Many conflicts examined in the book involved disputes over the geographic border around impacted communities, and therefore

over which communities are invited to participate in decision making events. The author shows how communities facing this challenge contest the fact that they are classified as “not impacted” by extractive projects.

Who determines the scope of impacts and which communities have the right to be compensated or even reject extraction, is fundamental to understanding opposition and violence in extractive sites. Generally, it is “easier” for extractive companies to gain support from populations on whose land the projects are to be developed in exchange for jobs and economic compensation. However, ensuring the compliance of neighboring communities, outside the zone of direct impact but who claim to suffer environmental damage, has proven to be problematic for mining and oil companies. The use of environmental impact assessment (EIA) in Peru, and prior consultation in Colombia, Bolivia, and Peru to contest the authority to decide who is, or is not, included in the impact/benefits zone, highlights the fact that indirect impacts matter. This in the voice of “not impacted communities” unveils the implications of extractive projects beyond the rights of nearby populations as the damage they cause is usually broader in scope and intensity than extractivists are ready to admit (Shapiro and McNeish, 2021).

Finally, the “articulation challenge” relates to the question of who speaks on behalf of impacted communities. This challenge is greater for communities in which mobilized insiders compete with community members amenable to extractive projects. The book delves into community divisions and the complexities of participation in contexts marked by deep internal asymmetries as well as external inequalities. Extractive projects often exacerbate community fractures by creating greater distance between the haves and have nots within communities, essentially, those who own land and resources and those who do not. This is perhaps one of the greatest challenges of participatory mechanisms, to not only reduce power asymmetries between the state/extractive companies and local communities, but also to contribute to reducing internal ones.


One major contribution of the book is demonstrating how participatory institutions expose these structural causes of conflict to public debate or force them onto the agenda for negotiation between stakeholders. More importantly, Jaskoski distances her argument from pessimistic studies that position local communities as victims of the state’s misuse of participatory institutions. She demonstrates that local actors are constantly developing strategies to overcome their subordinate position.

The book illustrates the virtue of comparatively analyzing three institutions which have rarely been jointly examined in the literature and yet share similar objectives. Unlike many studies on the subject, the book finds power in participatory procedures. Furthermore, according to the author, the participatory institutions that extractivist states have adopted to streamline extractivism help in fact to hin-

der extraction, diverging from extant research on prior consultation and environmental impact assessments. This is because the research does not treat community creative uses of participatory institutions as separate, informal institutions themselves. This analytical choice however might be problematic when examining the motives of anti-extractive communities regarding their adherence to state institutional rules.

For instance, the figure of prior consultation appeared in the international legal system in 1989, within a context of widespread international recognition of Indigenous collective rights (ILO 169). Long before nation states incorporated this right into their legislation, indigenous movements mobilized around prior consultation, under the banner of the ILO Convention. Taking advantage of the ambiguity of international regulations on indigenous rights, specifically regarding the content and scope of prior consultation, indigenous organizations in several parts of Latin America demanded the right to decide over subsoil resources, contrary to the constitutional provisions of their countries. An example of this is the 2009 *Bagua-zo* case, cited in Chapter 3 of the book, which took place before the approval of prior consultation in Peruvian law. At this point, it would be fair to ask what anti-extractive communities gained from state adoption of prior consultation. The argument that the rejection of state-led prior consultations by anti-extractive indigenous communities is a creative use of participatory institutions, might be going too far. And what of the self-consultations undertaken by indigenous communities without state intermediation? Could these also be examples of mobilization outside state-regulated prior consultation? Similarly, it remains unclear why the popular consultation in Tambogrande (Peru) in 2002, depicted by scholars and activists as a pioneering example of an anti-mining referendum, is treated as an informal consultation and not as a creative use of the legal figure of *consulta vecinal* (local/ community consultation). More importantly, what are the implications of making such a distinction?

Perhaps engaging with the literature on socio-environmental governance would have provided a more thorough discussion of how participatory institutions can contribute to fulfilling the goals of local communities struggling with extractive projects. As argued by a range of scholars, these communities are heterogeneous. Redistribution of gains and environmental protection are two dimensions of the socio-environmental conflicts that are nevertheless commonly demanded simultaneously in extractive conflicts. At the heart of these demands is the desire of communities to make a viable living without having to accept the degradation of their natural environments. Demonstrating that participatory institutions shape extractive conflicts and that communities use these instruments in a variety of ways not anticipated by the state is no doubt an important contribution to the literature on extractive conflicts and participatory institutions. Nevertheless, how participa-

tory instruments can contribute to producing policies that are socially and environmentally sound, rather than only be used for decision-making on specific extractive projects, is an avenue that further studies should explore. 

REFERENCES

- Cerqueira, Daniela (2020), “Libre determinación indígena: Algunos apuntes desde el Derecho Internacional”, *Justicia en las Américas*, blog by Due Process of Law Foundation, August 10, available at: <https://dplfblog.com/2020/08/10/libredeterminacion-indigenaalgunosapuntesdesdeelderechointernacional/> [accessed on: February 28, 2023].
- Falletti Tulia and Thea Riofrancos (2018), “Endogenous Participation: Strengthening Prior Consultation in Extractive Economies”, *World Politics*, 70(1), pp. 86-112.
- Flemmer, Riccarda and Almut Schilling-Vacaflor (2016), “Unfulfilled Promises of the Consultation Approach: The Limits to Effective Indigenous Participation in Bolivia’s and Peru’s Extractive Industries”, *Third World Quarterly*, 37(1), pp. 172-188.
- Gómez Rivera, Magdalena (2013), “Los pueblos indígenas y la razón de Estado en México: elementos para un balance”, *Nueva Antropología*, 26(78), pp. 43-62.
- Guarneros-Meza, Valeria and Gisela Zarembek (2019), “Mapping Violent Conflicts in the Mexican Extractive Industry”, *Open Society*, available at: <https://www.opendemocracy.net/en/democraciabierta/ilustrando-conflictos-en-la-industria-extractiva-de-m%C3%A9xico-en/> [accessed on: April 25, 2020].
- Gustafsson, Maria-Therese and Almut Schilling-Vacaflor (2022), “Indigenous Peoples and Multiscalar Environmental Governance: The Opening and Closure of Participatory Spaces”, *Global Environmental Politics*, 22(2), pp. 70-94.
- Leifsen, Esben, Maria-Therese Gustafsson, María A. Guzman-Gallegos and Almut Schilling-Vacaflor (2018), *New Mechanisms of Participation in Extractive Governance: Between Technologies of Governance and Resistance Work*, Abingdon, Routledge.
- Merino, Roger (2018), “Repolicizing Participation or Reframing Environmental Governance? Beyond Indigenous’ Prior Consultation and Citizen Participation”, *World Development*, 111, pp. 7583.
- Poweska, Radoslaw (2017), “State-led Extractivism and the Frustration of Indigenous Self-determined Development: Lessons from Bolivia.” *The International Journal of Human Rights*, 21(4), pp. 442-463, DOI: <https://doi.org/10.1080/13642987.2017.1284446>.
- Shapiro, Judith and John McNeish (2021), *Our Extractive Age Expressions of Violence and Resistance*, New York, Routledge.
- Torres-Wong, Marcela (2018), *Natural Resources, Extraction and Indigenous Rights in Latin America: Exploring the Boundaries of State-corporate Crime in Bolivia, Peru and Mexico*, New York, Routledge.