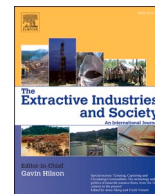




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The right to decide: A triad of participation in politicizing extractive governance in Latin America

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ABSTRACT

This article introduces a triad of participation as an explanatory framework that places more emphasis on the distinction between participation, decision-making and consent in politicizing extractive governance in three Latin American countries. To explore this issue, we consider the institutional mechanisms of participation from above expressed in the legislation of Mexico, Ecuador and Peru, as well as diverse experiences of community resistance against extractive projects in the same countries. Our analysis illustrates that state decision-making and stewardship over strategic and non-renewable natural resources remains unchallenged although participatory mechanisms are assumed as instruments for affected communities to shape decision-making over extractive projects. Our findings also indicate that large mobilizations, legal actions, calls for binding consultation, and forms of blockades are used to successfully shape decision-making. Whilst these actions from below obtain certain achievements, they are only temporarily successful as long-term decisions surrounding extractive governance and underlying structural inequalities remain unaffected. Though actors resisting extractive projects are possibly aware of this limited effect in the short-term, we suggest that their mobilization could create a path for questioning political participation outside the existing structural constraints for questioning established social orders and building emancipatory tools.

1. Introduction

Recent years have shown an increase in dependence on extractivism in Latin America and a continuous clash of ideals regarding the economic use of a territory through resource exploitation and large-scale development (Arsel et al., 2016; Smart, 2020). To implement extractive projects, governments have diminished, rejected, dismantled and demobilized claims that oppose extractive projects (Schilling-Vacaflor et al., 2018; Svampa, 2019a). This has become an underlying cause of socio-environmental conflict as affected communities seek to defend their material and symbolic living spaces (Svampa, M., 2019b). In reducing socio-environmental conflicts, extractive governance sees conflicts as a problem of ill-designed policies that need to consider

distribution of economic benefits, formal participatory and transparency processes, and societal engagement (Acuña, 2015; Merino, 2018); yet, this understanding depoliticizes the primary discussion on the permanence of colonial patterns of resource use and ownership that arise when extractive projects arrive to an affected land. Although international and national regulatory frameworks legally bind states to exercise participatory procedures with affected populations in defining the entrance of extractive projects, studies illustrate the shortcomings of institutionalized forms of participation from above and the elusive character of these mechanisms for civil society to influence decision-making (Perreault, 2015; Guzmán-Gallegos, 2017; Schilling-Vacaflor, 2017).

Through a radical democracy theoretical perspective, we disentangle three interlinked processes: participation, decision-making and consent,

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in order to understand the deeply political struggles and contestations between social groups that confront colonial structural systems of decision-making. It is this focus on opening up new opportunities for collective decision-making involving civil society and organisations that provides clear links to radical visions of democracy (Korf, 2010; Van Cott, 2008; Taylor, 2001). This article contributes to the literature on participation in extractive governance by highlighting the need to politicize what we call a triad between participation, decision-making and consent to put emphasis on the struggles over extractivism in indigenous and campesino lands in Mexico, Ecuador and Peru. Our aim is to use the triad as a theoretical basis for a fresh examination of extractive governance by answering two research questions: What are the current institutionalized participatory mechanisms for extractive governance in the selected countries? and in which ways and to what extent can affected communities shape decision-making regarding extractive projects? In doing so, we selected specific cases that were successful (albeit temporarily) in influencing decision-making in highly unbalanced terrains of participation: the Wirikuta in Mexico, where the Wixaritari peoples succeeded in suspending 78 mining concessions in their territories; the Kimsakocha project in Ecuador, where a popular consultation resulted in 86.7% of people rejecting mining activities, and a multi-peoples struggle in Loreto, Peru, where a blockade resulted in an official agreement for remediation of contaminated lands. The selected cases respond to different forms of social organization that demand meaningful procedures for decision-making. While the aim is not national representation, the cases illustrate the potential success of social mobilization and narratives of participation from below when participation from above prevents affected communities exercising their right to decide over extractive projects.

Commencing in 2019, the authors began collaboratively working on the paper for a period of two years. Firstly, via email correspondence and virtual meetings, the authors discussed their previous experiences working with social organizations in resistance against extractive projects in three Latin American countries. These discussions sought to make visible the common characteristics that reveal strategic possibilities for shaping decision-making developed by indigenous and campesino communities over the imposition of extractive projects in their lands. Data collection encompassed a variety of methods including literature reviews and content analysis of the legislation and regulatory frameworks of participation in extractive governance, and collaborative research prior to 2019 with social and non-governmental organisations encompassing informal discussions and participatory observation. These organizations encompassed the Yasunidos Guapondélig and the Cabildo Popular por el Agua de Cuenca in Ecuador and Wirikuta Tamatsima Wahaa Defence Front in Mexico. The three compiled cases were cross-read to examine common elements of social mobilization and participation. In what follows, we describe the triad of participation in extractive governance to later evaluate the existing institutional mechanisms of participation in the selected countries. Subsequently we synthesise each case, followed by the discussion, in which we analyse the strategies for shaping decisions from below. Finally, we conclude by indicating that social organization challenges institutionalised top-down resource governance mechanisms by creating new spaces for radical decision-making.

2. The triad of participation in extractive governance

Vast resource extraction literature examines the ways in which people engage in managing non-renewable natural resources (Schilling-Vacaflor, 2012; McNeish, 2017; Biehl et al., 2019; Gustafsson and Scurrah, 2019). Indeed, a ‘family’ of institutional mechanisms of participation, implemented by the state or private self-regulation initiatives, seeks to foster the engagement of people affected by extractive projects. The adoption of several participatory mechanisms represents an institutional innovation and suggests that decision-making structures are somewhat malleable by the power of people, thus rendering the

entrance of extractive projects as a successful outcome of social acceptance. Among the most important state mechanisms of participation are the free, prior and informed consent (FPICConsent), a framework to facilitate cooperative and good faith consultative processes to obtain consent prior to any legal or administrative measures that affect indigenous lands (ILO, n.d.; United Nations General Assembly, 2014), and the environmental impact assessment (EIA), a participatory process liable to any development project that produces environmental impacts (Leifsen et al., 2017). Non-state participatory initiatives have been implemented by the corporate sector and are now regulated through numerous compliance schemes facilitated by governments, financial institutions and businesses in order to minimize public opposition, or project cancellations (Harvey and Bice, 2014; Sanez, 2018). Corporate Social Responsibility (CSR), Social Impact Assessments (SIAs), and Social License to Operate (SLO) frameworks have been developed after concerns about citizens struggling to hold their governments accountable or when regulatory enforcement is weak or lacking (Hilson, 2012), and promote a self-motivated commitment for businesses to facilitate societal benefits that go beyond legal obligations (Franks, 2012; Heffron et al. 2018). Yet, all these mechanisms have been critiqued as a cynical public relations exercise and means of corporate survival (Ali and O’Faircheallaigh, 2017).

Several concerns suggest that the institutional framework is reduced to an administrative-bureaucratic apparatus, whose application does not compromise centralized forms of patronage, and where indigenous and campesino voices are reluctantly accounted for (Hickey and Mohan, 2005; Perreault, 2015; Rodríguez-Garavito, 2011; Schilling-Vacaflor, 2017). For example, although FPICConsent is one of the most important international regulations to protect indigenous territories, all Latin American governments have attempted to minimize it (Svampa, 2019b). A United Nations General Assembly (2009) report highlighted that whilst obtaining consent is an objective of the FPICConsent, ‘this requirement does not provide indigenous peoples with a “veto power” over decisions that affect them (p.17 para.48). Moreover, extractive projects have not been prevented from entering indigenous lands even when the FPICConsent has been effectively implemented and people have rejected the projects (Zarembeg and Wong, 2018). Meanwhile, corporate participatory initiatives are often not a legal requirement in the formalisation of decisions over development projects, instead, they are categorised as a weak attempt at project legitimisation and social acceptability (Esteves et al., 2012; Owen and Kemp, 2013; Macura et al. 2019), that also prevent companies from being held accountable for operational issues (Harvey and Bice, 2014; Heffron et al., 2018).

Under the described frameworks, participation is understood on the type of institutional basis but does not account for the power relations between actors subjected to it (Biggs, 1995; Cooke and Kothari, 2001; O’Faircheallaigh, 2010). Radical democracy instead argues for an accountable form of democracy that questions uneven power relations. According to Van Cott (2008), an indigenous perspective on radical democracy challenges colonial governance models and institutions by amplifying the spaces of contestation, participation and civic life. This implies rebalancing uneven power relations and creating political agencies outside framed structures of decision-making and beyond the state. Participation in that sense is seen in terms of expanding the spaces for common people to effectively take part in a variety of public decision-making processes, especially the ones in direct association to their everyday lives and spaces. Crucially, democracy is underpinned by the principle of plurality and the acknowledgement that other legitimate points of view have been registered within the broader decision-making (Dryzek, 2010; Nuemeyer and Dryzek, 2007). In this regard, participation is a contestation between social groups that needs to account for the structural systems of decision-making and the silencing of the less powerful ones (Taylor, 2001). This power disparity is evident in the operationalization of two interlinked processes: *participation* and *decision-making*. Following a radical democracy perspective, we separate these two concepts in order to understand the deeply political struggle

that relates to the question of decision-making on extractivism among all actors (Korf, 2010). As an element separated from participation, decision-making is defined as the contested process of reaching a judgement over projects or policies that have an impact over specific groups of people and environments. Although it is generally administered by the state and encompasses wider national concerns such as economic growth, investment and national developmental priorities, it supposedly incorporates the tacit *consent* from all the actors involved (Potapchuk, 1991).

The failure of the described participatory mechanisms in accounting opposition (or justice concerns) to extractive projects lies in the fact that affected communities' positions are not effectively formulated as a *binding* aspect for decision-making. In that sense, we argue that there is a third and equally contested element necessary to highlight the disconnection between participation and decision-making: the notion of *consent* integrated into the decision-making mechanism. Consent is assumed as an outcome that shapes and is shaped by participation of all actors and that poses a specific subjectivity shared by most people. Yet, it becomes a hegemonic manifestation that moves beyond state dominance and emerges as an expression of acceptance of leading ideas and social orders considered as natural conditions (Morton, 2003). In the institutional extractive governance framework outlined above, consent is traditionally implemented as a binary choice between either an acceptance or rejection of specific extractive projects cemented in underlying social orders: national priorities and the development imperative. Instead, we acknowledge that consent operates at different scales of decision-making. In other words, the first instance for consent (or non-consent) in decision-making begins with the comprehensive, informed, proactive and binding role in decisions by the communities affected. Here we do not aim to define the specific forms in which communal decisions are obtained as they follow culturally-appropriate forms of decision-making. Our point is to illustrate that if the right of affected communities to decide over projects occurring in their lands is not enforced as a binding condition of participation, communities' participation becomes a *passive* aspect of decision-making; often in the guise of a report or summary which jostles with other national concerns (e.g. economic, development), whilst other *active* components encompassing different actors (e.g. businesses) and processes (e.g. lobbying) seek to influence the decision.

We contend that these three distinct elements: participation, decision-making and consent, form a triad, central to implementing and upholding a critical framework in politicizing extractive governance. Participation is to be understood organically and cannot be separated from decision-making on the basis of ignoring binding social demands. As such, consent is not free from political contestation as the configuration of certain ideas and imaginaries and the production of common senses is an ongoing process that can prevail without the need of coercion but the use of deception and manipulation in participatory processes (Frederiksen and Himley, 2020). This triad is not conceived as a rigid process but as one continuously transforming, enriching and informed by new subjectivities, discoveries and the incoming political struggles. This is why the focus on participation needs to understand resistance as a mode of addressing strategies of challenging consent as hegemony (Morton, 2003). A radical democratic approach is then useful to explore the participatory institutional governance framework in Mexico, Ecuador and Peru, the challenges faced by affected communities in the governance triad and when and how they shape decisions.

3. Participatory mechanisms from above

In an effort to understand the limitations of participatory processes, this section answers our first research question: *What are the current institutionalized participatory mechanisms for extractive governance in the selected countries?* In doing so, key underlying issues emerge: who owns the resources and how access and use of resources are defined, who decides over the use of resources, at what political scale are decisions

taken, under whose terms is participation, and how information is being generated and shared. Here we focus on state institutional processes that encapsulate participation in extractive projects in Mexico, Ecuador and Peru.

A revision of the three national constitutions indicates three main participatory mechanisms used in extractive governance. The first and most commonly known is the free, prior and informed consultation (FPIConsultation) for indigenous and afro-descendant peoples, which is considered a weak version of the FPIConsent because of its non-binding character. All three countries are signatories of the ILO-C169; however, neither of them provides communities with the right of veto over extractive projects. The Mexican constitution defines FPIConsultation in Art. 2, which mandates that federative legislation also recognizes the right of indigenous peoples to be consulted. However, out of thirty-two Mexican states, only eighteen have incorporated this right in their respective legislations and out of the eighteen, only seven have established the FPIConsultation in all plans or projects that affect indigenous peoples. The other federal states limit consultation exclusively to the elaboration of development plans (Gutiérrez and Del Pozo, 2019). Peru is the only country that has implemented a law of FPIConsultation of indigenous peoples. However, this law does not provide indigenous communities to exercise a right to veto (CEACR, 2011 p.792), whilst some indigenous peoples are excluded owing to a restrictive identification criterion (Urteaga-Crovetto, 2018). In Ecuador, the FPIConsultation (Art. 57.7) has constantly been breached by governments even though it is part of the collective rights of peoples, communities and nationalities. In 2012 the Inter American Court on Human Rights (IACHR) sentenced the Ecuadorian state to implement a legal framework for the FPIConsent, after a sentence in favour of the Sarayacu peoples due to the violation of their territorial rights over oil concessions (Verbeek, 2012). Instead, the FPIConsultation has only been formulated as an article in the Mining Law (Art. 90) and the Executive Decree 1247 for granting oil concessions; yet both regulations were developed without participatory procedures and omit the recommendations issued by the IACHR about culturally-appropriate participatory procedures (López, 2016).

When examining the application of this instrument on the ground, there have been claims of biased and limited information, insufficient understanding of the information, shorten or no deliberation time, the reduction of participatory processes to socialization of information, or the application of events based on voluntary CSR guidelines (Rodríguez-Garavito, 2011; Schilling-Vacaflor and Flemmer, 2015; Fontana and Grugel, 2016; Merino, 2018; Gutiérrez and Del Pozo, 2019). In practice, the FPIConsultation shows a restrictive approach that neglects engaging in culturally appropriate procedures, communitarian institutions and diversity of decision-making forms, and the principle of self-determination; instead it focuses on the informative nature of formal and non-guarantee administration mechanisms.

The second participatory mechanism is part of the framework for the EIA (Mexico: Law of Environmental Protection; Ecuador: Environmental Management Law; Peru: EIA Law). Although the laws account for participatory processes, the data generated for the EIAs is produced by the companies where transparency in access to information is restricted. EIAs are presented to the public in a couple of hours, where no deliberation takes place. These common practices have lined up to advance forms of participation from above that also control the forms of knowledge generation and the way information is managed. Ecuador possesses a specific environmental consultation, part of the EIA; however, both, the FPIConsultation and the environmental consultation are conceived as non-binding or exclusionary mechanisms that are not subject to affected communities' mandates.

The institutional hierarchy assigned to the state extends to the ownership and decisions over the use of strategic resources, creating apparent contradictions in the constitutions and marking a crucial separation between ownership of land and stewardship of strategic, non-renewable and underground resources. Across the three countries,

citizens have the right to land and property which can be owned by individuals or communally, whilst indigenous and afro-descendant peoples have the right to autonomy and can adopt suitable practices for the use of natural resources in their lands (Mexico: Art. 2.A, 2.C and 27; Ecuador: Art. 57 and 60; Peru: Art. 88 and 89). When confronted with other constitutional articles, we see that the central government retains the exclusive ownership and stewardship to administer, regulate, control and manage non-renewable, strategic and underground natural resources, irrespective of their location in communal or indigenous lands (Mexico: Art.25, 27 and 28; Ecuador: Art.261.7 and 313; Peru: Art.55 and 66). In all cases, the state can grant concessions for use of "strategic" resources to private interests, which supersede the rights of residents to use the resources on the ground located in the same space of land. Clearly, this property regime, where the state claims the ownership of strategic, non-renewable and underground resources irrespective of where they are located, remains the continuation of colonial legislation during the Spanish crown (Scott, 2008).

Legal contradictions and loopholes are evident between the legitimacy of territorial practices such as the use of resources, the regimes of property and stewardship and the participatory frameworks used for legitimizing predefined decisions as consent. For example, the Ecuadorian constitution stresses that when there is a majority opposition from the community or non-agreement has been reached, the national government, as the highest administrative authority in the country, will have the final decision-making over development projects (Ecuador: Art. 398). This illustrates how state apparatuses are used to control the final decision of a development project and to safeguard the investments of the corporate actors involved (Svampa, 2008). Indeed, national states maintain the colonial legacy in Latin America and play a key role in the intensification of extractive activities through political, financial, judicial, normative and/or violent support for extractive capital (Alimonda, 2015). In all three countries the legislation strengthens the state control of resources, the economic national priorities for decision-making and the centralization over institutional procedures of participation, resulting in an operationalisation that reinforces a particular scalar politics of power, decision-making and ownership of resources.

There is, however, a third participatory mechanism that legally establishes a binding character of decision-making for affected communities: the popular consultation for any decision of national interest (Ecuador, Art. 104 and 106) and the popular consultation for issues of national and regional interest and democratic development planning, and community-based decision-making in agrarian assemblies (Mexico, Art. 26 and 35). Although Peru constitutionally recognises a popular consultation, it is solely used for the election of state officials (Art.150, 152). In Mexico, the Agrarian Law grants assemblies in indigenous communities, ejidos and agrarian communities as the highest decision-making body from the ground that can legally paralyze any development project. This law is a historical achievement since it establishes ejidos and agrarian communities' territorial autonomy as constitutionally recognized. However, even these norms are contested. In Ecuador, the binding character of the popular consultation has been challenged by the central state arguing that any local decision has less hierarchy than decisions of national interest, thus, the ultimate resolution on an extractive project is formulated by the central state. Yet, this argument on the priority of the national over the local only obscures a discussion that instead needs to focus on wider structures of injustice and oppression and on how power operates in scalar politics (Vela-Almeida et al., 2018; Mohan and Stokke, 2000).

How participation is operationalised and which legal instruments it uses is clearly important to consider alongside reflecting on the scale at which decisions are taken. As participation is framed under the state "procedures", this performative act functions to legitimize an institution rooted in centralized power with predefined ideas based on hegemonic political and economic interests presented in the form of consent. Because of the lack of binding mechanisms that protect decisions from affected communities, the political scale of decision-making remains at

the national level and is controlled by the central government. We illustrate this challenge in the triad where the use of institutional participation from above neglects the binding character of affected communities' demands. Under that framework, communities' voices are not actively or sufficiently incorporated into decision-making; yet, ultimate decisions are legitimized under performative mechanisms of participation presented as consent. In other words, participation does not challenge the extent to which people are able to shape decision-making, thus requiring citizens to implicitly trust, as a token, in the meaning and procedural processes while not necessarily leading to decisions firmly cemented on the demands of the ones most affected by extractivism. Indeed, tokenistic participation weakens societal trust in democratic processes, thereby fostering the emergence of strong social networks for building collective action to resist extractive projects (Conde and Le Billon, 2017; Arce et al., 2020). In the following section we argue that social forces of resistance emerge where people express their voices using other diverse strategies from below that extort for the affected communities' right to decide and to protect their self-determination over their lands (Bebbington et al., 2008; Falletti and Riofrancos, 2018; Walter and Urkidi, 2017).

4. Shaping decision-making from below

This section answers our second research question: *In which ways and to what extent can affected communities shape decision-making regarding extractive projects?* For answering this question, we present three cases: the (1) defence of the Wirikuta desert in Mexico, an ancestral sacred territory of strategic importance for the cultural survival of the Wixárika people; (2) the resistance against the large-scale mining project of Kimsakocha, located in a hydrological recharge area in the highlands of Ecuador that provides water for the livelihoods of campesino communities; and (3) the Loreto Region in Peru, a key oil producing area that has been a site of ongoing indigenous protests for several decades (summary in Table 1). We observed that for the Wirikuta and Kimsakocha cases, formal participatory procedures were absent in the allocation of concessions, despite these lands possess some form of legal protection as indigenous territories, and ecologically vulnerable areas respectively; in Loreto, even though there have been participatory procedures for oil extraction, they were restrictive and the state has failed to adhere to its commitments. Considering this, these cases illustrate how mobilization of affected communities has resulted in social organization and other forms and narratives of participation from below that were able to successfully influence, at least partially, in halting or negotiating reparations over extractive projects.

In 2001, Wirikuta was declared by the state government as a Natural Sacred Site, recognizing its symbolic and sacred character as having invaluable cultural value. Yet, in 2009, the national government of Felipe Calderón granted 6,000 hectares of concessions to the Canadian company First Majestic Silver. In August 2010, the Wixáritari people discovered that the Mexican state had granted these concessions without FPIConsent, which led the authorities of the Wixárika people, community peasants and other civil society organizations to establish the Wirikuta Tamatsima Wahaa Defence Front (FDW) to launch communicational, cultural, and environmental campaigns and make visible both the importance of the desert for campesinos and the illegality of mining concessions in ancestral territories. In alliance with human rights organizations, they used legal actions to claim for their violated cultural and territorial rights in adherence to the ILO-C69. Important solidarity was achieved both nationally and internationally, with the support of artists, intellectuals and other civil society organizations to articulate larger support that politically pressured the national government. With the articulation of a variety of actors, the Wixáritari communities filed legal protections obtaining the suspension of 78 mining concessions. Another important strategy has been the declarations of "territories free of mining" in the municipality of Catorce, the ejidos El Salto and Anexos and San Juan de Matanzas, signed by assembly agreement to reject

Table 1

Description of the three cases in Mexico, Ecuador and Peru.

Case	Extractive interests	Initial struggles	Resistance claims	Formal participation	Shaping decision-making (forms of mobilization)	Outcomes
Wirikuta (Mexico)	6,000 hectares of concessions in the Wirikuta Sacred Natural Site.	2010	Defence of ancestral territory for the Wixárika cultural, territorial, political and spiritual continuity.	Concessions without FPIConsultation	Legal actions for violation of cultural and territorial rights. Mobilization strategies and large alliances. Declaration of “territories free of mining”	Suspension of 78 mining concessions
Kimsakocha (Ecuador)	mining concession comprising 8,030 hectares.	2003	Protection of water sources in the paramo ecosystem and the livelihoods of campesino communities	Concessions without FPIConsultation	Self-convened community consultation over the mining activities. Street mobilization and protests. Legally binding popular consultation in 2019	Popular consultation resulted in 86.7% of voters rejecting mining activities.
Loreto (Peru)	key oil producing area	Several decades. Recent mobilization in 2016	Call for dialogue for failure to adhere to remediation and local developmental projects. Human rights abuses.	Restrictive consultation and failure to adhere to state commitments.	Blockade of the River Marañon.	Blockade lifted after the Saramurillo Accords in 2016 for effective environmental remediation and independent inspection of the Northern Peruvian pipeline.

large-scale mining projects and a toxic garbage dump surrounding the sacred territory (Gavilán, 2018). The declaration of “territories free of mining” comes as a result of a process of assembly decision-making validated by the Agrarian Law, which grants communities and ejidos the right to oppose any project that does not correspond to indigenous ways of life and that threatens the environment.

The case of Ecuador is particularly interesting as due to the absence of any formal state-led consultation process for assigning mining concessions, the parishes of Tarqui and Victoria del Portete in Cuenca held a self-convened community consultation over the mining activities in 2011. The results pointed out that 92.38% of voters decided against the mining project (OCMAL, 2011). The national government however described the community consultation as “unconstitutional,” alleging that it was not convened by government agencies. In 2012, faced with the rejection of the people’s decision formulated through the community consultation, the Union of Community Water Systems of Girón formally requested the National Electoral Council (CNE) a popular local consultation to decide again on the permanence of the extractive project in their lands. In 2015 the CNE carried out the verification process to proceed with the popular consultation, yet the Constitutional Court took more than three years to rule on the constitutionality of the consultation. By 2018, after years of street mobilization, national and provincial campaigns and protests, the communal water organizations demanded the CNE to give way to a resolution, as the time established by law for the pronouncement of the Constitutional Court had ended. The request was approved, and the popular consultation was held in March 2019. The results yielded a resounding victory against metal mining: 86,79% of Girón voters rejected mining activity in Kimsakocha (El Comercio, 2019).

The case of Peru illustrates that even when participatory processes have taken place, the state and oil companies fail to adhere to previously signed agreements surrounding remediation and local developmental projects (Lu, 2016; Gonzalez, 2018a). In September 2016, roughly 2,000 indigenous Amazonian peoples including the Achuar, Kichwa, Kokama, Urarinas and Quechua blockaded part of the River Marañon, one of the main tributaries that forms the River Amazon at the village of Saramuro. This was chosen in part due to its proximity to the North Peruvian

pipeline pumping station one (Hill, 2016) but also because the regional capital Iquitos, heavily reliant on cargo transported along the river, would be paralysed. The central demand was for the former Peruvian president Pedro Pablo Kuczynski and other high-ranking political authorities to visit them to discuss ongoing oil activity in the region and claim for the failing of adherence to past agreements over the contamination produced by the oil companies and in response to ongoing human rights abuses. The blockade would remain an ‘indefinite protest’ according to one of the protest leaders (Hill, 2016). Tactically, it was successful in forcing the government to negotiate. The blockade on cargo and passenger vessels was lifted for about a week in October 2016 but was resumed after the government’s initial negotiating response was deemed inadequate (Fraser, 2016). The blockade was only finally lifted after 31 agreements, collectively called The Saramurillo Accords, were signed between Peruvian government officials and the indigenous peoples in December 2016. These Accords called for the effective remediation of contaminated sites and for an independent inspection of the Northern Peruvian pipeline and other connected pipelines with the participation of indigenous representatives (Fraser, 2016). However, ongoing pipeline spills have recently contributed to the perceived failure of the accord leading to the resumption of indigenous protests (Taj, 2019).

Across the three cases, different forms of mobilization emerge in the absence of spaces for exercising decision-making where participatory mechanisms from above become tokenistic. Affected communities have strived to defend their autonomy and the right to decide on the type of development desirable for their communal and ancestral territories. New forms of expression have been built to expand demands including declarations of “territories free from mining”, social media campaigns, as well as resorting to international legal frameworks, thereby conditioning the decisions of states. In effect, mobilisations create a path for questioning political participation outside the existing structural constraints of the triad of participation. The combination of these strategies has resulted in indigenous, campesino communities and allies influencing decision-making processes in three important ways. Firstly, people forced the government to negotiate and sign agreements by blocking strategic areas in the running of the extractive economy in

Loreto and exercising large political pressure by national, international campaigns and protests in the Wirikuta ancestral lands. Secondly, the application of legal actions to defend the territorial ancestral rights and to claim for legal protections for the suspension of concessions in sacred land, an action that has become a recent but effective practice for indigenous and campesino communities by using the recourse of law for territorial defence (Couso et al., 2010; Gonzalez, 2020). Thirdly, the local popular consultation for deciding over the Kimsakocha project binds the government to respect the decisions of the vast majority of the balloted population.

Despite the achievements in shaping decision-making in their territories, the Wixaritari peoples in Mexico, the campesino communities in Ecuador and the Amazonian peoples in Peru continue to face an exacerbated risk of losing their ability to control their lands. Today, the fight continues to summon inhabitants and their allies because the protections obtained have not been enough to secure their will even under binding conditions. For example, the case of Kimsakocha marked a milestone as it constituted the first locally binding popular consultation on extractive issues held in Ecuador. However, the mining company INV Metals insists on keeping the project, alluding to the fact that the mining deposit is located outside of the consulted jurisdiction and where no consultation is in place (INV Metals, 2019). The state has also discarded the popular binding consultation, noting that the legislation grants the state the exclusive stewardship over the use of "strategic" natural resources, challenging the binding character of popular consultations. Indeed, we see that when corporate and national state practices are still insufficient to obtain consent from communities, corporate and state narratives belittle people's demands and counter protest by means of deception, delegitimation, repression or criminalization (Gonzalez 2018b; Dietz, 2019).

One must acknowledge that the social mobilization has been temporarily successful as ultimate decisions on strategic resources remain centralized and underlying structural inequalities for decision-making are unaffected. This highlights the constraints posed by the triad between participation, decision-making and consent. How can the passive aspect of decision-making be strengthened in such a way that it is more actively 'enforced' in the corridors of power, particularly in relation to other active components such as lobbyists or businesses? How can this situation be challenged? Drawing upon a radical democratic approach would completely upend the resource governance institutional frameworks, notably surrounding the societally grounded connections between participation and decision-making through an interlinking binding process of consent cemented in self-determination. This is underpinned by pluralism rather than a search for binary decisions based around unanimity, a challenging prospect in contentious development contexts. However, one might be cautious against the romantization of binding processes of decision-making by affected communities. There is a risk of co-optation of actors to disengage from the process or reach a particular decision in the interlinking process of consent (Baur and Schmitz, 2011). Zarembeg and Wong (2018) challenge the idea that binding participatory mechanisms would necessarily improve social conditions as the FPIC consent for example, generally occurs in complex situations where the common good, pecuniary benefits, social inequality and the environment are in tense contradictions and people are forced to choose between "bad and worse". Using a Gramscian analysis, DALisa and Kallis (2016) have suggested that maladaptive policies (or decisions) are often advanced with the consent of civil society that favours vested private interests and not necessarily through the use of coercive power.

Most importantly, a critical inquiry on participation cannot solely centre on the existing decision-making imbalance within the extractive governance domain. A discussion related to radical democracy will necessarily include a reflection on how existing social orders and institutions come into being and what is the emancipatory potential of participatory practices in transforming the prevailing order (Van Cott, 2008; Temper et al., 2018). In that sense, participation becomes a

methodology for achieving social transformation and can be claimed from below rather than being bestowed from above. As Hickey and Mohan (2005) mention, participatory processes are successful depending upon them being part of wider radical political projects that expands people's rights and agency, and engage in the political realm with a critical position that transcends the local and creates movements that forge at a larger territorial scale to revise structural political, economic and environmental injustices. In doing so, a discussion of what plurinationality and territorial sovereignties entail as emancipatory processes for self-determination becomes extremely relevant (Barker, 2005; Vela-Almeida, 2018). If participation is also related to the degree in which people can influence or transform modes of action and being to improve their material and symbolic living conditions, we then enter in the domain of the daily forms of organization, recognition of values, rights and needs and system of knowledge in the participatory processes, and interactions that shape cooperation in societies or groups sharing (more or less) common interests and future imaginaries (Cleaver, 2001). We do not have answers to these questions here but merely raise them to indicate that a radical democratic implementation of participation requires further theoretical research and development.

5. Conclusion

In this article we revisit extractive governance by introducing a triad of participation, decision-making and consent to understand the connection between mechanisms of participation from above and strategies of mobilization that shape decision-making from below in three Latin American countries. This article moves beyond depoliticized assumptions of participation by using a radical democracy approach to position this triad as a political struggle that highlights the importance of affected communities' binding demands interlinked to decision-making and in upholding a meaningful democratic basis for extractive policies in Latin America. Through the analyses of the legislation in Mexico, Ecuador and Peru, we observe that the central state dictates, with contradictions in the norm, the scope of participation, the democratic mechanisms in which it is implemented, the information available, as well as retaining ultimate control and final decisions over resource use. We illustrate that current institutional forms of participation create an inherent legal hierarchy that benefits private interests and particular scalar politics of power and decision-making. As a result, mobilization and other strategies of participation from below emerge due to the invisibilization of affected communities' demands and the violation of their territorial rights. The combination of these diverse participatory acts from below has resulted in indigenous and campesino communities and allies shaping decision-making processes in three ways: by forcing the government to negotiate and sign agreements via blockades, by the use of legal mechanisms to defend the right of consultation or to claim the violation of them and finally, by pushing for popular consultations that bind the decision of the majority of the people inhabiting an extractive project landscape. In doing so, the three cases indicate how social organizations are circumventing the institutionalized top-down resource governance mechanisms.

Understanding affected communities' struggles and demands is poignant because when people become invisibilized by state participation, other ways of making their voices heard arise. The cases presented here illustrate that participation could be exercised through new forms of expressions to challenge unjust power relations and has the potential to acquire new definitions for social change. It shows that a continuous decision-making exercise is strengthened by social organization but is not limited to it. In other words, it is the resistance that has articulated people's political participation: in fact, what has led communities to get involved in processes that articulate their demands is the need to guarantee their voices and decisions over their lives and material and symbolic territories. Resistance underpinned in radical democracy is currently situated to contest colonial and hierarchical extractive governance regimes but extends to the creation of emancipatory

agencies for the defence of livelihoods and territorial self-determination. It is through such an approach on continuous social organization that the possibility of transformative and long-lasting change could be achieved.

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