

Special Issue

Rethinking Extractive Industry

Regulation, Dispossession, and Emerging Claims

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Introduction

Eduardo Canel, York University

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Liisa L. North, Professor Emeritus, York University

"This double issue of the *Canadian Journal of Development Studies* responds to growing academic discussion and public concern about the environmental, social, political, and economic impacts of the rapid globe-spanning growth of mining and petroleum industries over the past twenty years. The recent boom in mineral and petroleum exports has renewed debate about the potential developmental contribution of extractive industries. It has also opened new discussions about international, and home and host country responsibilities for ensuring both a fairer distribution of the benefits that might be derived from their operations and compensation for the damages they often cause ...

"[T]he complex and interrelated issues briefly identified above ... are analyzed in the collection of papers brought together in this publication, which results from a conference called "Rethinking Extractive Industry: Regulation, Dispossession, and Emerging Claims." The many facets of extractive industry expansion demand analysis from various disciplinary perspectives, and thus the authors whose works are presented here include anthropologists, political scientists, lawyers, environmental specialists, and sociologists. They work at universities, non-governmental monitoring and advocacy organizations, and research centres. Each examines a discrete set of issues or focuses on a single case, but together they provide a reasonably broad introduction to the critical questions and conflicts arising from the new context, with examples of the ways in which communities, corporations, and governments have responded. They focus on emerging claims around natural resource extraction, and on questions of obligation and responsibility in the pursuit of extraction for development."

Conceptualizing Extractive Industry Regimes through Canadian Lenses

Alternative Accountability Mechanisms and Mining: The Problems of Effective Impunity, Human Rights, and Agency

Catherine Coumans, MiningWatch Canada

In the absence of a global regulatory system or international legal system to hold multinational corporations to account for their operations in weak-governance zones, a range of internationally applicable alternative accountability mechanisms have emerged under the broad rubric of corporate social responsibility. In Canada a parliamentary report initiated high-level efforts to design CSR accountability mechanisms with respect to the operations of Canadian extractive industries overseas. This paper examines whether these international and national CSR efforts provide for sanction and remedy and assure respect for human rights, and whether they support the agency of affected communities to protect values of importance to them.

L'évolution des régimes miniers au Canada : l'émergence de nouvelles formes de régulation et ses implications

Myriam Laforce, Groupe de recherche sur les activités minières en Afrique, Université du Québec à Montréal

Considering the growing dependence on Impact and Benefit Agreements (IBA) as a new mode of regulation of mining activities in Canada, at arm's length from formal mining regimes, this article questions the value of such mechanisms as a means of improving the participation of Aboriginal communities in the decision-making process related to the development of their territory. Drawing upon the recent evolution of these regimes, and considering the implications for power relations among the players, the author suggests that the freedom of action that these populations benefit from to assert their views remains quite limited in spite of the creation of new negotiation processes.

Corporate-Community Agreements and Informed Consent: Ensuring Developmental Benefits at the Sites of Extraction?

Aboriginal-Mining Company Contractual Agreements in Australia and Canada: Implications for Political Autonomy and Community Development

Ciaran O'Faircheallaigh, Griffith University, Brisbane

The negotiation of contractual agreements between Aboriginal communities and mining companies is now standard practice in Australia and Canada and increasingly common in developing countries. The widespread use of such agreements indicates that they offer significant economic and social opportunities. However, such agreements also raise major issues for Aboriginal relations with other political actors and institutions, including government, environmental groups, and the judicial system. The paper considers these implications and identifies strategies to address them and so maximize the contribution of contractual agreements to community development.

Indigenous Participation in MultiPartite Dialogues on Extractives: What Lessons Can Canada and Others Share?

Viviane Weitzner, The North-South Institute, Ottawa

This paper analyzes literature on the Whitehorse Mining Initiative (WMI) and subsequent multipartite dialogue processes in the extractive sector in Canada and overseas to critically assess Indigenous participation. It synthesizes design elements for more meaningful Indigenous participation and identifies implications for Indigenous-led, national, multipartite policy dialogue. While the WMI did bring about more inclusive and democratic decision making, there are serious weaknesses in Indigenous participation, lack of concrete outcomes, and little evidence of institutional learning about strengthening Indigenous participation in subsequent processes. Adapting the WMI model without addressing these issues will perpetuate power asymmetries and marginalization of Indigenous and Tribal peoples.

Operationalizing Free, Prior, and Informed Consent in the Extractive Industry Sector? Examining the Challenges of a Negotiated Model of Justice

David Szablowski, York University

Free, prior, and informed consent (FPIC) is a key principle being promoted in an attempt to reshape a broad family of governance regimes designed to address the local consequences of extractive industry development in indigenous territory. This article explores the development of the principle of FPIC and the challenges that it presents to conventional forms of governance. FPIC is examined as a form of negotiated justice that aims to produce regulatory decisions through horizontal and decentralized forms of engagement. The article seeks to develop and clarify issues in building a critical research agenda on the operationalization of FPIC.

Corporate Voluntary Initiatives: Can They Ensure Accountability and Development?

Corporate Social Responsibility and the Rentier Nigerian State: Rethinking the Role of Government and the Possibility of Corporate Social Development in the Niger Delta

Uwafiokun Idemudia, York University

This paper contributes to the emerging discussion on the role of government in corporate social responsibility (CSR) from a developing country perspective. Drawing on a preliminary conceptual framework, the paper critically examines the extent to which the Nigerian government has facilitated or inhibited CSR practices, and the ramifications for corporate social development. It demonstrates that the nature of the Nigerian state, the country's rentier economy, and the contested nature of CSR have prevented the Nigerian government from providing an enabling environment for CSR, which, together with oil companies' failures, undermine the possibility of corporate social development in the Niger Delta.

Revisiting the Chad-Cameroon Pipeline Compensation Modality, Local Communities' Discontent, and Accountability Mechanisms

Marieme S. Lo, University of Toronto

This paper queries social regulation and social justice claims related to compensation agreements. It draws upon the Chad-Cameroon pipeline project and compensation settlements between the Exxon Oil Consortium and the Bakola Pygmies in Cameroon as an empirical case study. It interrogates accountability and equity concerns in settlements in light of the fact that such arrangements are value-laden and arise from political processes premised on a "social minimum," thus entrenching a political economy of resource allocation that potentially destabilizes local community entitlements and livelihood sustainability. A critical analysis of the Chad-Cameroon pipeline hinges on the validity of formal corporate-community agreements, the disjunction between the rhetoric of compensation and actual practices, and the contested scale and scope of accountability.

Corporate Social Responsibility and Canadian Mining Companies in the Developing World: The Role of Organizational Leadership and Learning

Hevina S. Dashwood, Brock University

Bill Buenar Puplampu, University of Ghana Business School

This paper explores the role of firm-level dynamics in order to explain the extent to which mining companies show a commitment in policy and practice to the principle of corporate social responsibility (CSR). The authors argue that attention must be given to organizational variables, including the role of leadership and learning. As theorizing on CSR in the developing country context remains underdeveloped, this paper tests the applicability of existing organizational behaviour concepts to a case study of a Canadian, mid-tier mining company operating in Ghana by exploring the mechanisms by which mining companies come to recognize and act on their CSR obligations.

States, Conflicts, and Community Resistance: Developmental Alternatives to the Reigning Regime?

Revisiting the Reform Process of African Mining Regimes

Bonnie Campbell, Université du Québec à Montréal

This article examines the reform of regulatory frameworks that has taken place in Africa over the last twenty years in light of the findings of a research project on the negotiation of mining regimes in Canada. The argument is that certain elements of the free mining doctrine that animated the nineteenth-century formulation of mining regimes in North America can be seen as having guided the liberalization process of African mining regimes during the 1980s and 1990s. One of the ways this came about was through the strong retrenchment of state authority. In turn, this contributed to the institutionalization of asymmetrical relations of power and influence with important consequences for local political processes, local participation, and community welfare.

Oil Extraction, Dispossession, Resistance, and Conflict in Nigeria's Oil-Rich Niger Delta

Cyril I. Obi, Nordic Africa Institute, Uppsala

The article analyzes the ways in which globalized oil extraction results in the dispossession of local people and fuels violent resistance in Nigeria's oil-rich, but impoverished Niger Delta. This follows from the transformation of resistance from non-violent to violent forms, involving well-publicized attacks by Niger Delta, ethnic-minority militias against the Nigerian state–oil multinationals partnership. The main argument is that oil extraction and the inequitable distribution of its benefits fuel disenchantment and conflict between the Niger Delta people, and those regarded as the exploiters and beneficiaries of the oil resources in the region. It also examines the local and transnational dynamics and ambiguities underpinning resistance politics and the prospects for resolving the contradictions spawned by “fossil fuel capital” in the Niger Delta.

The Dilemmas of Global Resistance against Extractive Capital: The Oilwatch Network in Africa

Isaac “Asume” Osuoka, Vanier Scholar, York University

Anna Zalik, York University

This article examines the emergence and campaigns of Oilwatch Africa and their implications for North-South tensions among global advocacy networks. The paper explores how the actions of civil society networks in the global South also express internal tensions shaped by local and national power relations. These relations are affected by political, economic, and cultural variations in the social conditions of the communities that these networks seek to support, as well as diverse political interests among their member organizations, some of whose activities may facilitate rather than resist transnational exploitation.

Extraction, Territory, and Inequalities: Gas in the Bolivian Chaco

Denise Humphreys Bebbington, PhD candidate, University of Manchester

Anthony J. Bebbington, University of Manchester

Conflicts over extractive industry have emerged as one of the most visible and potentially explosive terrains for struggles over distribution, territory, and inequality in the Andes. We explore these relationships in Bolivia, focusing on gas extraction in the Chaco region of the southeastern department of Tarija. We consider how the expansion of extractive industry intersects with territorializing projects of state, sub-national elites, and indigenous actors as well as with questions of inequality and inequity. We conclude that arguments over the territorial constitution of Bolivia are inevitably also arguments over gas and the contested concepts of equity underlying its governance.

How to Be Heard When Nobody Wants to Listen: Community Action against Mining in Argentina

Mariana Walter, PhD candidate, Universitat Autònoma de Barcelona, and Joan Martínez-Alier, Universitat

Autònoma de Barcelona

Since 2002, Argentina has witnessed a growing number of mining conflicts. While national and provincial governments promote mining as a basis for development, local communities have opposed and acted to prevent it. Between 2003 and 2008, 7 out of 23 provinces banned open-pit metal mining, thus challenging the institutional framework that promotes it. These challenges, moreover, began during a period of high unemployment. Why are communities opposed to an activity that could benefit local development? This article argues that these communities are demanding recognition for local visions of development that are not compatible with mining—and that cannot be adequately accommodated by current decision-making processes.

Les acteurs de la lutte pour les droits des communautés face aux industries minières : le cas péruvien

José De Echave, CooperAcción, Lima

Conflicts between communities and mining enterprises have been increasing in Peru since the mid-1990s as exploration and exploitation expanded rapidly in both old and new mining areas. The article first reviews community protest, including the organization of a National Confederation of Communities Affected by Mining (CONACAMI), as well as the actions taken by the non-governmental organizations that formed the network Red Muqui to deal with mining conflicts. It then turns to examine the responses of the enterprises, which have ranged from outright rejection of community demands to engagement in dialogue, while the state has vacillated. It concludes by arguing that the current global crisis that has created a hiatus in the expansion of mining provides an opportunity to formulate an agenda for governance for the future.

Reviews

Earth Matters: Indigenous Peoples, the Extractive Industries, and Corporate Social Responsibility, Ciaran O'Faircheallaigh and Saleem Ali, eds.

Judy N. Muthuri, International Centre for Corporate Social Responsibility, Nottingham University Business School

Corporate Citizenship in Africa: Lessons from the Past, Paths to the Future, Wayne Visser, Malcolm

McIntosh, and Charlotte Middleton, eds.

Olufemi Amao, Brunel Law School, Brunel University, Uxbridge

Minería transnacional, narrativas del desarrollo y resistencias sociales [Industrie minière transnationale, relations au développement et résistances sociales], Maristella Svampa and Mirta A. Antonelli, eds.

Viviana Patroni, York University

Mining and Development in Peru With Special Reference to The Rio Blanco Project, Piura, [Exploitation minière et développement au Pérou : Le projet Rio Blanco, Piura], A. Bebbington, M. Connarty, W. Coxshall, H. O'Shaughnessy, and M. Williams

John Crabtree, Oxford University

Navigating Neoliberalism: Self-Determination and the Mikisew Cree First Nation, Gabrielle Slowey

David Newhouse, Trent University

Escaping the Resource Curse, Macartan Humphreys, Jeffrey Sachs, and Joseph Stiglitz, eds.

Joshua S. Dimon, University of California, Berkeley

Under Rich Earth, produced and directed by Malcolm Rogge

Shin Imai, Osgoode Hall Law School, York University