People's Participation in Decision Making in Mining in Peru: Exploitation or Opportunity?

THESIS

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Abstract

There has been an aggressive expansion of capital investment in mining, oil, and gas extraction since the 1990s in the Global South. There are three main reasons for this. First, states needed to increase revenues and rising international mineral prices facilitated access to deposits formerly too expensive to extract. Second, policies and institutional changes were favorable for investors leading to a business-friendly regulatory environment that was a result of the liberalization of capital, which included promulgation of new mining codes. Third, there was a worldwide growth in demand for minerals from rapidly industrializing countries like China. Peru has become one of the leading producers of copper, zinc, tin, and lead since the 1990s. Growth of the mining industry in Peru has coincided with international attention to issues of social and environmental justice in mining areas. This has led to the development of international conventions and Peruvian laws and norms to protect the rights of indigenous peoples to participate in decision making in areas slated for mining. In 2013 and 2014, I conducted document analysis and ethnographic case study research in Peru to examine the role of indigenous participation in negotiations surrounding the establishment of a new mining project in indigenous and peasant territory. I raised two main questions in this study: 1) Are legislated processes spaces where actors, specifically those whose lives are directly
impacted by mining activity, genuinely experience positive *transformative opportunities* to benefit the community in social, political, or economic terms? 2) Do those *invited spaces*, where a heterogeneous set of actors with significant status differences are brought together, constitute a space for these actors to engage in a mutual and respectful exchange as outlined by ideals of citizen participation and devolution of power? The analysis of this study revealed that what was actually being practiced was not genuine participation. Instead, the created spaces for participation reinforced structural patterns of injustice and power imbalances that trumped the introduction of “democratic ideals and practices” in legislation.
This thesis is dedicated to my mother Ana, my dad Pedro and my late brother Ernesto Esteban Kim, whom we miss dearly.
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Chapter 1: Mining and Economic Development in Peru

Introduction

There has been an aggressive expansion of capital investment in mining, oil, and gas extraction since the 1990s in the Global South. There are three main reasons for this. First, states needed to increase revenues and rising international mineral prices facilitated access to deposits formerly too expensive to extract. Second, policies and institutional changes were favorable for investors leading to a business-friendly regulatory environment that was a result of the liberalization of capital, which included promulgation of new mining codes (Otto, 1997; Warhurst & Bridge, 1997). Third, there was a worldwide growth in demand for minerals from rapidly industrializing countries like China (Rogich & Matos, 2008).

The 1990s onwards is known as the mining boom era in Latin America and particularly in Peru. Peru has become one of the leading producers of copper, zinc, tin, and lead in the world (Burgees, et al., 2013). Yanacocha in northern Peru is the largest gold mine in Latin America and Antamina, a copper mining venture, was rated first in the world for investment by value from 1990-2001 (Bridge, 2004). A new report published in 2014 by Rights and Resources Initiative (RRI),\(^1\) found that “[o]ver 40% of land in Peru

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\(^1\)Rights and Resources Initiative is a network of partners and organizations engaged in forest and land policy reform in Africa, Asia, and Latin America whose mission is to “…support local communities’ and
was allocated for forest, mining, and oil and gas concessions” (p.2). Twenty percent of Peruvian land is in mining concession, of which over 90% is populated by people (Alforte, et al., 2014). In contrast, the Ministry of Energy and Mines (MEM) reported in 2014 that 14.8% or 1,897,900 km$^2$ of Peruvian land has been granted to mining concessions, 80,104 km$^2$ less than the RRI report. In Latin America, the mineral resource extraction industry has contributed a significant percentage to the regional gross domestic product (GDP), from 4.3% of Latin America’s GDP in 2001 to 6.1% in 2011, according to United Nations Economic Commission for Latin America and the Caribbean (ECLAC). In Peru specifically, the mining industry contributes 5.7% to the national GDP and 62% of domestic exports as of 2012 according to National Society of Mining, Petroleum, and Energy.\textsuperscript{2} Peru has experienced significant national economic growth as expressed through its GDP (see Figure 1). Government leaders continue to support extractive resources because they are optimistic about the potential economic benefits from the industry (Bebbington, 2009), benefits that many claim will contribute to Peru’s “economic development.”\textsuperscript{3}

The relationship between extractive industries and development is complex. Bebbington et al. (2008) label it as contentious and ambiguous: “‘Contentious’ because

Indigenous Peoples’ struggles against poverty and marginalization by promoting greater global commitment and action towards policy, market and legal reforms that secure their rights to own, control and benefit from natural resources, especially land and forests.” (Rights and Resources Initiative, n.d.).\textsuperscript{2} National Society of Mining, Petroleum, and Energy is a Peruvian nonprofit business organization and union of mining, hydrocarbon, and energy related activities.\textsuperscript{3} I use a neoliberal concept of development here because it is relevant to the Peruvian government’s policies for economic development. This definition emphasizes growth of the economy, integration of the country into the global economy, and creation of a free market economy (Wade, 2004). Extractive industries have an advantage in such an economy because countries like Peru can raise national capital through mineral commodities exports to purchase goods overseas in the global market. However, there are competing definitions of development, several of which are used in Peru. See Chapter 2 for an in-depth discussion of these concepts.
mining has so often delivered adverse social, environmental, and economic effects for the many, but significant gains only for the few; ‘ambiguous’ because of the abiding sense, among local populations as much as development professionals, that just maybe mining could contribute much more” (p. 887) (i.e. to community development). On the one hand, mining leads to a high number of social and environmental disputes over land, water, and decision-making. On the other hand, resource extraction provides a high rate of financial return that can lead to development. Has the increase in income led to an increase in social expenditures? For example, public spending on education as a percentage of the GDP has remained stable since 2001 (See Figure 2), the mortality rate in Peru has decreased by 66% since mid-1990s (See Figure 3), and the life expectancy at birth has increased 12% since 1990 (See Figure 4).

Certainly, investment from foreign mining companies became an economic success as evidenced by the close relationship between mineral exports and Peru’s total exports (see Figure 4). Mining remains the largest export industry in Peru today accounting for 52% of its exports (Ministry of Energy and Mines). However, extractive activities can have significant negative impact on peoples’ livelihoods. A reliance on resource-based development also can lead to a state of dependency for regions or nations that “…remain on the periphery of the global economy – largely dependent upon the global ‘core’ for consumer goods and for markets for their primary products” (Murray, 1999, p. 128). This threatens possibilities for sustainable development.

As a result, growth of the mining industry over the last twenty years has been the cause of environmental damage and social and environmental conflict in fragile ecosystems in Peru and throughout Latin America, for example in Guatemala (see Fulmer,
Godoy, & Neff, 2008), Panama (see Runk, 2012), Ecuador (see Bebbington, 2009), and Argentina (see Walter & Martinez-Alier, 2010). Not only does mining positively affect GDPs in the Global South, but also in the US and Canada. The mining industry in the US contributed US$ 225 billion as of 2012 (National Mining Association, n.d.) (2% of total GDP but in some states comprised more than 10% of state GDP) and contributed $54 billion to Canada’s GDP in 2013 (The Mining Association of Canada, 2015). Mining comprised 3% of total GDP and Energy (hydroelectricity, natural gas, crude oil, and electricity) comprised 10% of total GDP in Canada as of 2013 (Natural Resources Canada, 2014).

Socio-environmental conflicts have been present in Peru for over a decade and indigenous peoples have demanded to implement rights to prior consultation and to FPIC (free, prior, and informed consent) (Schilling-Vacaflor & Flemmer, forthcoming). The Ombudsman’s Office (Defensoría del Pueblo), an autonomous government-funded agency headquartered in Lima which also has regional offices, reported in March 2014 that 211 new or ongoing conflicts were identified, of which 134 were categorized as socio-environmental conflicts. Out of these 134, 73% were mining related conflicts. In late 2011, newly elected President Humala set a precedent by promulgating the Law of the Right of Indigenous or Native Populations to Prior Consultation for any project that affects indigenous communities directly. At the time that I conducted research in Peru in 2014, this law had only been scheduled for implementation for two hydrocarbon projects in the Amazon region. In the highlands where I conducted research, environmental

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4 In this thesis I will use Law of the Right of Indigenous or Native Populations to Prior Consultation or Law of Prior Consultation interchangeably.
impact assessments (EIAs), which include a social dimension, were being implemented for mining projects. A set of laws and norms governing the process required for social aspects of EIAs provides details regarding how three key actors are to meet, negotiate, and arrive at agreements that should benefit all parties.

My thesis focuses on the “meeting process” that takes place between the three groups of key actors: the national government, the mining company, and “the community” (leaders and legally-registered members). Agreements are a requirement for a company to obtain legal permits for exploration and exploitation activities in a community (on their lands) located in the area of impact or influence of the mine. These “citizen participation processes” are intended to be inclusionary of all community members impacted by a mining activity and are designed to decrease conflict and tensions between affected communities and the mining company. By creating participatory mechanisms, the Peruvian government’s stated goals were to improve democratic governance and respect the rights of rural indigenous communities. But questions remain regarding how the laws are put into practice and what their implications are. Do impacted rural communities have opportunities to improve socially, politically or economically? Do they really benefit?

Historically, as a result of colonization, identifying communities as indigenous implied a social category of lesser value. In Peru, since the Agrarian Reform (1969-1978), indigenous communities in the Andes have been classified as “campesinos” (rural farmers) and not as indigenous. However, the numbers of communities claiming indigenous identities have increased in Peru (see Wright & Puig, 2012). For the purpose of this thesis, I use the terms “rural communities,” “peasant communities,” and “indigenous communities” interchangeably.
**Figure 1** Peru’s GDP per capita in US$, 1983-2013


**Figure 2** Peru’s public spending on education as percentage of GDP, 2001-2011

Figure 3 Peru’s mortality rate (under 5 per 1,000 live births), 1996-2012


Figure 4 Peru’s life expectancy at birth, 1990-2011

The Research Problem

Social and environmental conflict related to large-scale mining projects is present in Peru and much of the rest of Latin America. Nationally and internationally, indigenous protesters have demanded that their voices be heard and have called for social justice and an end to violations of indigenous rights. In Peru, since 2008 the emblematic cases of Bagua and Conga a hydrocarbon and a mining project respectively, have focused national political attention on environmental management issues. The demand for better

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6 In 2007, the UN General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples. A total of 144 states voted in favor, 4 voted against (Australia, Canada, New Zealand and the United States) and there were 11 abstentions (Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, Russian Federation, Samoa and Ukraine).

7 The conflicts of Bagua took place over the course of a year but they culminated in 2009 when confrontations between police and protesters left 24 civilians and 9 police officers dead. The protests took place in response to a legislation package approved by former president Alan García that expanded the access to oil exploitation in the Amazon. See Chapter 2 for the Conga case.
practices and social justice also has generated interest and activism internationally from both the nonprofit and private sectors.

To reduce conflicts, a major focus among some large non-renewable resource extraction companies has been to engage with communities and to share the benefits with people. An example of this effort is the well-known business practice of corporate social responsibility (CSR). CSR activities and policies are voluntary and, once approved by management, are carried out by a company’s community relations staff. My thesis focus, however, is not on CSR practices. It is on legally-mandated activities and actual practices and outcomes. These include:

1) the mandatory participation of communities in meetings and negotiation processes with mining companies (enforced by the Peruvian government as part of the evaluation process needed to authorize mining projects);

2) the ways in which impacted community members navigate and negotiate their needs, losses, and gains; and

3) how the government manages competing pressures to sustain high economic growth and to apply democratic practices to guarantee that benefits are spread to a greater proportion of the population than in the past—particularly in a country that is highly stratified by ethnicity, class, and geography.

Based on this information, I raise the following questions: are Peruvian laws and norms creating spaces for certain actors, specifically indigenous groups whose

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8 The biggest multinational mining companies have CSR programs such as BHP Billiton, Rio Tinto, and Newmont. As part of CSR programs, companies may start a trust with funds to be managed at the community level to support projects related to health, education, or professional training. For literature on CSR performance and its role in the extractive industry around the world, see Hilson, 2012; Slack, 2012; Newell & Frynas, 2007.
livelihoods are directly impacted by mining activity, to experience new opportunities that allow them to benefit socially, politically, economically, and environmentally? And do those “legal invited spaces,” where a heterogeneous sets of actors with significant status differences are brought together to negotiate details of a mining project, constitute a transformative space to engage in a mutual and respectful exchange and process as outlined by ideals of citizen participation and devolution of power as contemplated in the legislation? That is, do all parties have the necessary skills, knowledge and support to engage as equals?

In Peru, as in the rest of Latin America, there are competing forces that advance certain policies over others. The one that I am most interested in is neoliberalism and the neoliberal policies that target the development of “good” democracies while prioritizing growth of the economy. How does the Peruvian government balance these two demands? My interest in Peru’s experience is an outgrowth of prior research that I had done on Peru’s legislative process to increase rights of participation for indigenous peoples. I decided to examine firsthand how this takes place, whether the promised outcome of people having a voice is fulfilled, and the ways in which international companies and the government respond to peoples’ needs. Each issue is examined in detail in following chapters.

In Chapter 2, I provide a detailed account of the discourses informing and framing my research. I start by introducing the problem through the socio-environmental conflict literature that has emerged due to the expansion of the mining industry in neo-liberal Peru. Then, I review the changing discourse of “development” from the modernization process to neoliberalism; the discourse of democracy in natural resource governance; and the
discourse of empowerment through participation in the development process. Specifically, I focus on the concept of the tyranny of participation\(^9\) from the critical standpoint of the discourse and on the limitations of participation in development as a tool for empowerment. I also explain my research design and methods.

In Chapter 3, I present an analysis of data that I produced through document research. This analysis is based on an examination of the legislation and policies in place that require citizen participation for mining projects. Here I examine legal norms and regulations currently in place and indicate the required role that an impacted community should play in each phase of a mining project. I discuss these norms and regulations in terms of the timeline during which each was approved. This sets the stage for illustrating the cumulative nature of legislative changes, the bureaucratic inefficiency of institutions involved, and how the legislation leans heavily towards the interests of a mining company. That is, how it aligns with neoliberal policies in place in Peru to create favorable conditions for mining investment.

In Chapter 4, I analyze the case study through which I produced primary data through semi-structured interviews and participant observation at several sites in Peru: a rural indigenous community located in Apurimac whose members were beginning the process of negotiation with a new mining company, NGOs in Cusco, and government representatives in Lima.

\(^9\) I refer here to tyranny of participation as “the illegitimate and/or unjust exercise of power” (Cooke and Kothari, 2001, p. 4) and as participation as a duty and obligation to engage in meetings creating a burden on time otherwise spent on other activities. Often such meetings are empty exercises because what people bring to those meetings is ignored by those in control of the process/meeting. Whoever controls the story is able to decide whose rights are going to be defended. See Chapter 2.
In the final chapter, I discuss the major findings, policy implications, the contribution to knowledge and theory of my research, and limitations of my research with recommendations for future research needed.

Throughout the thesis, I highlight not only legal requirements for inclusion of communities in project management and actual practices in the management process, but also patterns of social injustice that my research revealed that point to important barriers to successful, genuinely transformative opportunities\textsuperscript{10} for local communities’ empowerment, ostensibly a goal of the meetings process required by current laws.

\textsuperscript{10}I draw from Hickey & Mohan (2004) to refer to \textit{transformation} as the process where “…approaches are strongly informed by an engagement with development as an underlying process, rather than a series of technical interventions, and are tied into broader projects of social justice and radical political change” (p.13). See Chapter 2.
Chapter 2: Citizen Participation in Peru’s Mining Development

Introduction

There is ample evidence that the extraction of natural resources has devastating social and environmental effects, particularly on indigenous groups (Gedicks, 2001) around the world. The mining industry, led by multinational companies, keeps growing and more in some countries over others. Peru ranked 6th in total value amount of mining investment between 1990-2001 (Bridge, 2004). So it is no coincidence that the rights of indigenous peoples in Peru have become increasingly threatened by the expansion of mineral resource extraction.

At the same time that the mining sector continued to grow, international policies and international organizations started to acknowledge and advocate for the participation of those groups historically excluded, such as peasants and the indigenous (Pring & Noe, 2002). Not only do global institutions like the United Nations and the International Labor Organization advocate for the inclusion of human rights and labor rights in decision-making processes, but many private resource extractive corporations, particularly the largest (based on market value), also address issues of corporate social responsibility and sustainable development. For example, the International Council for Mining and Metals (ICMM) was created with the vision “…to act as a catalyst for performance improvement in the mining and metals industry” by bringing together mining companies and
associations to “maximize the contribution of mining, minerals and metals to sustainable development”\(^{11}\) (ICMM, n.d.).

The Peruvian government has also been establishing environmental regulations since the 1990s. These include a requirement to conduct environmental impact assessments (EIA) that include “citizen participation” phases before, during, and after the operations of mining projects. Recent modifications and expansions have been introduced to the regulations requiring participation in the mining sector in order to address the growing conflicts and to increase inclusion of those community members in the area of a mining project’s influence who would be or have been impacted.

For my thesis research, I evaluated the extent to which legislated processes in place that mandate citizen participation actually would allow impacted communities to benefit from mining development. The following questions guided my research:

1) Are these legislated processes spaces where actors, specifically those whose lives are directly impacted by mining activity, genuinely experience positive *transformative opportunities* (Cornwall, 2004) to benefit the community in social, political, or economic terms?

2) Do those *invited spaces*, where a heterogeneous set of actors with significant status differences are brought together (Cornwall, 2004), constitute a space for

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\(^{11}\) ICMM (initially formed in 1998 as the Global Mining Initiative) was created in 2001 out of a concern among the largest mining companies that the sector was facing challenging problems because of increasing social and environmental damage (Mining, Minerals and Sustainable Development (MMSD), 2015). In parallel, the International Institute for Environment and Development (IIED), an international development and environment policy research organization, and the Extractive Industries Review, a branch of the World Bank, generated reports highlighting the importance of addressing environmental issues, human rights, sustainability, and poverty. An IIED report was commissioned by the Global Mining Initiative in 1998 for the World Summit on Sustainable Development in 2002 with the tenth anniversary of the Rio Earth Summit in mind.
these actors to engage in a mutual and respectful exchange and process as outlined by neoliberal ideals of citizen participation and devolution of power?

It is before, during, and after a legally-mandated EIA (Environmental Impact Assessment) that spaces of interaction and negotiation should be created together by mining company representatives, community members, government representatives, and NGOs. For this reason I examined the citizen participation component of the EIA legislation through document research and fieldwork that included interviews and community meetings held during a negotiation period (in this case, to obtain community consent for the mining company to complete their EIA and obtain government approval for exploitation). Hickey & Mohan (2004) and Cornwall’s (2004) concept of “transformative opportunities” was useful to design my research as a way to identify the role that participatory meetings have in economic development projects initiated by the Peruvian state but primarily implemented by the private sector. And the idea of “invited spaces” used by Cornwall (2004) is relevant and significant in my research because the participatory meetings in mining development are initiated by a private mining company that is required to approach and engage communities in areas of mining impact in order to obtain the State’s authorization for use of community lands.

Below, I provide the context for my research through a discussion of accounts from other sources of the social and environmental impacts of the large-scale mining industry in Peru and company-community relations. This literature drew my attention to the mechanisms currently in place in Peru’s legislation regarding the role of communities in participatory development of a mining project. Specifically, authors stated mechanisms were either nonexistent or were in place to benefit certain privileged sectors of society
more than the poor. For this reason, to further understand the political and economic context in which socio-environmental conflict was taking place, I turned to the policies of the development project,\textsuperscript{12} which was implemented post-WWII throughout Latin America. The discussion below traces the ideologies that have promoted political, economic, and social policies across the region. These policies include the role of natural resource extraction in a free market economy and the role of citizen participation for the promotion of democratic ideals and social justice, particularly (as is the case in Peru) to remediate the negative impacts of the expanding industry. I then clarify the relationship between natural resource governance and neoliberal economic policies. In the last section, I explain my research design and methodology.

\textbf{Mining and Social Conflict in Peru}

In February 2015, the Peruvian Ombudsman’s office registered 211 current social conflicts of which 56\% were related to socio-environmental conflicts and the natural resource extraction industry (Defensoría del Pueblo, 2015). The reasons behind mining conflicts are varied and complex. For this reason, it is necessary to analyze the specific historical context of each case, the chain of events, the role of each of the stakeholders, and the cultural (ethnic) background of each of the stakeholders (Solomon, Katz, & Lover, 2008). In order to understand why conflict arises, I review a selection of studies with examples of poor community-company relations that exemplify little to no information sharing and unilateral decision-making processes that led to social conflict in mining projects from the Peruvian Andes and other parts of the world.

\textsuperscript{12} McMichael’s concept (McMichael, 1996).
Poor communication or lack of communication among stakeholders appear as themes in interviews conducted by Bebbington & Bury (2009). For example:

“…people possess inadequate information regarding the implications of…concessions, and the information they do receive has problems of salience, legitimacy, and credibility. Interviewees have often requested information from us, because often they neither understand nor trust information given to them by mining companies, the MEM\textsuperscript{13}, or environmental groups” (Bebbington & Bury, 2009, p. 17299).

Similarly, Zarate et al. (2009) found that there is little to no information flow between a mining company and local residents, the government and residents, or even between government and mining companies; they conclude that this exacerbates already fragile relationships and increases polarization.

Anguelovski (2011) examined dialogue processes between the company BHP Billiton and communities surrounding the Tintaya Mine (Peru) “in order to understand why residents resisted deliberative spaces created to address their concerns” (p. 384).\textsuperscript{14} This study highlights how delicate the issues are for a multiparty dialogue in the Andes of Peru. As an example of how multiple efforts of dialogue can also lead to conflict, Anguelovski (2011) explains that “company executives, NGOs, and external observers have maintained that the 2005 mobilization was unexpected, because of the [company’s] efforts…to address community demands” (p. 390). Anguelovski also presented the concerns of local inhabitants who participated in the 2005 mobilization. The activists demanded broader participation because “indigenous peoples hold that popular assemblies held in large indoor or outdoor spaces are ultimately the structure that gives

\textsuperscript{13} Ministerio de Energía y Minas (Ministry of Energy and Mines)
\textsuperscript{14} Anguelovski (2011) refers to “deliberative spaces” as a negotiation approach used to engage communities, NGOs, government representatives, and company representatives “…with the hope that such processes improve relations between local stakeholders and companies” (p. 385).
legitimacy to decisions” (p. 392). Additionally, local activists claimed that there was a need for a larger number of communities to be represented in dialogues with the mine (Ibid.).

Lack of prior communication and engagement of community members from areas of influence (impact) was also evident in studies carried out by Bebbington & Bury (2009). They explain that “because key decisions are made far away in Lima, and local actors feel far less at ease in the formal environments of Lima than do mining officials,…[local] residents’ ability to express their views during exploration and exploitation [phases of a project] is often obstructed.” The researchers continued: “...feeling that there are few or no possibilities to elicit government response to their concerns, local populations frequently conclude that violent conflict is the only way to make their knowledge count” (p. 17299). Within the context of social conflicts, lobbying (by the Ombudsman’s Office, NGOs, International Financial Institutions, and some mining companies) efforts proved successful in pushing through institutional change in Peru.

In response to local communities’ opposition, mining companies began to recognize the need to develop procedures for grievance handling in Peru and other settings. In their study, Kemp, Owen, Gotzmann, and Bond (2011) analyze these procedures at six mining operations located in Ghana, Papua New Guinea, Lao People’s Democratic Republic, Australia, New Zealand, and Peru where company-community conflict existed. The authors argued that “how companies interpret and respond to the complexities of these relationships will have definite and lasting implications for whether
just practices prevail, or remain in the realm of rhetoric” (p. 94). Interestingly, the authors found that:

“…the companies involved in the research are not strongly aligned with the value orientation of justice scholars, nor are they well aligned with self-regulatory frameworks across the three dimensions of power, dialogue and participation. In fact, most are failing to harness the positive potential of conflict and move toward the achievement of just relations on procedural and interactional dimensions. The result is that they may even be exacerbating the likelihood that low-level conflict will escalate, eventually manifesting in more intense or severe expressions” (p. 106).

According to the Kemp et al. analysis, mining companies were not performing well in the sphere of community relations. Coumans (2011) work confirms Kemp et al. by stating that scrutinized high-profile global mining companies need to obtain a “social license” to operate (involving agreements with and permissions from local, impacted communities) “if they are to avoid further reputational risk, costly delays, [and] the potential loss of a project” (Coumans, 2011, p. 116) but that, in the end, when companies sought to obtain a social license to operate, they instead confronted opposition.

Slack (2011) argues that the practical principles of Corporate Social Responsibility (CSR) are questionable and in particular in developing countries. The work of community engagement under the CSR umbrella comes second in priority since “business as usual” has precedence over any other matters (Szablowski, 2002). For example, during the resettlement plan in Peru for the Antamina mine in the department of Ancash, it was unknown to the company’s Community Relations team that “the design plans for the project had been redrawn. The lands previously designated for resettlement [of the community] had been appropriated by the expanded construction site”
(Szablowski, 2002, p. 262). As a result, the company’s community relations specialists were required to quickly find alternative plans for resettlement in a matter of weeks.

In general, socio-environmental conflict in Peru has been growing in the last decade and has been widely documented in the literature. (For more examples, see Triscritti, 2013; Ponce & Clintock, 2014) The community relations practices documented in the literature have not led to satisfactory social inclusion. Next, I turn to a discussion of the development project that has shaped Peru’s political, economic, and social policies in the second half of the 20th century and its relationship to the extraction of natural resources in the Global South in general. This literature has been instrumental to my research as it helps contextualize the social, political, and economic structures in place in Peru that have led to the expansion of the large-scale multinational mining industry.

**The “Development Project” as Background to Peru’s Policies**

One of the discourses that informed my research is the critique of “development,” also known as “modernization.” This literature became influential in my thesis because I was able to contextualize Peru’s political, economic, and socio-environmental policies related to resource extraction. The Latin American mining boom of the 1990s and a “race to the bottom”15 to increase foreign direct investments have a historical precedent that dates back to post-WWII.

Since post-WWII, US economists argued that peoples’ well-being and quality of life would improve through economic growth and material consumption. Economic “developmentalism” became a worldwide project meant to stabilize world capital. It was

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15 This concept refers to the competition among countries to attract investment, meaning countries must offer the better options for corporate profit making.
led by the most powerful nations at the time, the United States and its European allies (the so-called First World). By going through certain “economic stages” that capitalist countries had gone through in the past, other nations (the so-called Third World) could move from being underdeveloped, to developing, and finally to being a fully developed country.

“[P]lanners presented development in ideal terms: as an evolutionary progression along a linear trajectory of modernization…not only would each state replicate the modernity of the First World (with the U.S. at the apex), but there were expectations that the development gap between First and Third Worlds would be progressively closed” (McMichael, 1996, p. 29).

Economic growth was to be achieved by increasing capital formation in the form of loans and investment. There was an emphasis on technical assistance from professionals from the First World to the Third World and on mechanization and increased use of technology. By expanding education, health care, and training of national professionals, poor countries would invest in human capital. The economic growth principle was implemented in Latin America through the United Nations Economic Commission for Latin America (ECLA) in the form of import-substitution industrialization along with the green revolution (McMichael 1996).

During the 1970s, however, statistics and economic research showed that poverty had expanded within countries even where economic growth rates were high and that the gaps between rich and poor countries had grown despite all the investment, loans, projects and development programs. A new mainstream development approach to alleviate poverty and target equity during this period was through meeting basic needs (food, water, health care, education, and housing). The goal was for poverty alleviation
leading to a healthy labor force for job creation and economic growth in a modern
economy. The modernization project continued, but the focus shifted to the use of
“appropriate technology” to fit the context and not just follow Western models. The
1970s also saw an increased concern over urban growth leading to slums, environmental
degradation, and a growing concern with the marginalization of some social groups such
as women and the indigenous in development (McMichael, 1996).

In the 1980s, Peru and the rest of Latin America started experiencing economic
hardships in a period widely known as the “lost decade” when countries were greatly
indebted as a result of taking international loans to finance their development projects.
Governments and donors lost faith in the modernization project. Neoliberal economics
and a free market ideology gained support and became the next economic model to
follow in order to become a competitor in the world economy (Gwynne & Kay, 2000).
“Economic globalization” became the leading policy and development was redefined as
“integration into the world market.”\textsuperscript{16} During this period, “[t]he IMF\textsuperscript{17}
assumed a de facto role of banker to the world determining, with the World Bank, conditions by which states
could renegotiate their outstanding loans and/or service their debt” (McMichael, 1996,
p.34). A set of reforms known as the “Washington consensus” or “structural adjustment
policies” (SAP)\textsuperscript{18} were implemented across Latin America and other indebted regions
(Lara & López, 2007). By “liberalizing capital,” that is removing barriers to investment

\textsuperscript{16} Neoliberalism had as one goal the repayment of international debts in one of the five world currencies. This would require integration into global markets and a new export economy in order to earn money in a
global currency (McMichael, 2011).
\textsuperscript{17} International Monetary Fund.
\textsuperscript{18} For example, reduce government spending; increase government income; increase exports to bring in
foreign currency; devalue local currency to make local products more difficult for people to buy, hence
freeing them up for export; and other such policies.
and to capital mobility, the Peruvian state would attract foreign direct investment, as could most Latin American countries that adopted SAPs in the late 1980s and 1990s. Foreign investment increased rapidly and has continued to do so.

Non-governmental organizations filled a crucial gap in service provision for the most marginalized populations by implementing social programs and obtaining financial support from states in the “global north.” Investment in social programs targeting poverty alleviation grew in popularity as did self-help programs such as microenterprise development, skill training, and community development projects. In the meantime, nationalist movements and terrorists activities emerged to resist neoliberalism in some countries of the global south.

As part of this change, nation states needed to find a niche. That is, what has high demand in the global market that your nation can provide? Starting in the 1990s, Latin America became a target region for mining investment to meet global demand. Specifically, Peru, Chile, Argentina, and Mexico, among others, found their niche in this area. They were ranked in the top ten countries receiving the largest percentage of worldwide mining investment between 1990 and 2001 (Bridge, 2004, p. 413).

One aspect of neoliberal reforms was to transform government institutions; the policy was called “good governance.” For the Latin American region, the Inter-American Development Bank developed and advised countries regarding changes needed to support good governance. The major policy was political and administrative decentralization to improve government accountability to its citizens at each level of governance (national,

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19 Democracy was always part of the goal of the modernization approach. Neoliberal decentralization was consistent with Reagan policies of devolution of responsibilities to local governments that took place in the US in the same period of time.
Particularly in Latin America, decentralization became a necessary step to democratization in the period of transition from autocratic regimes to elected governments (The World Bank, n.d.). Effective decentralization entailed empowerment of local authorities to use resources for the local people (Agrawal & Gupta, 2005; Ribot, 2002) and empowerment of local people to play more of a role in making their needs known and in demanding accountability from elected officials. Decentralization also is known as a way to legitimately and effectively run a democratic government that listens to the demands of its citizens (Grindle, 1998). Even though the decentralization process became a priority politically and socially, in the economic sector neoliberalism backed by a central government advocating for a strong focus on market liberalization became the dominant policy focus. As Gwynne and Kay (2000) explain, “Latin American governments recognized that the political economy of neoliberalism had become the basis for policy in what could be identified as ‘competitor’ regions in the world markets. Such modernization is necessary in order to successfully attract foreign investment from global corporations that have a wide range of options of where to invest” (p. 142).

Neoliberal reforms also included the restructuring of labor markets: “new wage and employment bargaining systems have been introduced, giving more power to employers and less to trade unions” (Gwynne & Kay, 2000, p. 145).

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20 Decentralization trends included new forms of participation, consultation, and partnerships (CIESIN Columbia University, n.d.). There were three features of decentralization: political (elections), administrative (shifting decision making down to the local), and fiscal (shifting budgetary control to the local level for some activities). Political and administrative decentralization developed hand in hand. Their success depended on fiscal decentralization which, in most countries, was woefully inadequate; implementation lagged way behind which left control entrenched at the upper levels. In some cases, change started in certain policy sectors such as social security or health care and in some it started at the administrative level. Each country developed its own plan for decentralization. For most it was not comprehensive or evenly applied (Ribot, 2002).

21 Modernization here refers to the process of integration into the global economy.
Peru exemplifies neoliberal governance across the social, economic, and political arenas. McNulty (2011) explains that in Peru in the early 2000s, at the end of Fujimori’s presidency, the Peruvian government implemented a “participatory decentralization reform” characterized by devolution of new powers to subnational levels of government – regions, provinces, and municipalities – and new forms of citizen participation in these governments to “…find new ways to give both voice and vote in subnational decision-making processes to societal actors” (McNulty, 2011, p. 8). The role of decentralization in Peru was important in my research design. This included, at the national political level, the neoliberal ideology of devolution of decision-making to the people, which coincided with a growing emphasis on participatory development and poverty alleviation in the international development arena. But McNulty is highly critical of the possibilities. She notes that the Peruvian case

“…demonstrates that mandated participation, when stemming from top-down national political forces, does not always translate to meaningful citizen participation in practice. It is no surprise to those who study the developing world that laws are not always implemented as intended after passage. Thus, in many countries these new forms of participation are working well in some areas of the country, yet barely functioning in others” (McNulty, 2011, p. 9).

The preceding discussion prompted me to look at whether or not political elective played any role in these meetings between affective communities and corporate entities. The aspects of participation that were designed to give a voice to indigenous organizations reflect the key principles of decentralization discussed above. But implementation has been criticized as “participation” minimally present without peoples’ voices being heard, as will become clear in Chapter 4. Given the criticisms of decentralization, one of the things that I sought to verify was whether or not the
democratic, locally-elected representatives were present at the meetings organized for communities that were to be displaced. Was the process of political and administrative decentralization connected to this other process of participation between local communities affected by a mining project and local government officials?

In the next section, I discuss the role of participation in development practice and how it has been shifting, at least on the discursive level, to include the beneficiaries of economic development. Has it been shifting or not from a top-down technocratic policy approach to a bottom-up participatory approach? Although I recognize that there was a much needed shift to move away from top-down technocratic approaches to a bottom-up, people first approach, there was and is a need for a critical perspective on bottom up participations such as socio-political pressures for participation and bottom up development projects that have not led to genuine participation.

**Participation as a Policy Concept**

While macro-economic policies were pointing toward increasing the size of the market, in the social development sector the concept of participation was accused by development scholars of being a tool for domination and power to continue benefitting the status quo. Nevertheless, participatory approaches to development gained support from international NGOs, international financial institutions, and influenced state-level policies starting in the 1990s in Peru.

Several factors led to the incorporation of public participation in development. In the 1970s, NGOs began considering approaches with a focus on self-sufficiency and empowerment (McGee, 2002) and in the 1980s development agencies from the North started discussions to replace top-down technocratic approaches due to widespread failure
to eradicate poverty and inequities in the prior thirty years. In the same decade, the concept of citizen participation emerged in Latin America as a result of democratic transitions in many political regimes (Castillo & Avila, 2008).

During the mid-1990s, multiple international development agencies started including in their discourses how participation in development with a focus on human rights (Uvin, 2007) could improve rates of economic success. For example, the “World Bank ... note[d] the need to work with governments to enhance stakeholder participation in policy analysis, design and implementation, and the potential of participation as a tool to increase state responsiveness and accountability” (McGee, 2002, p. 96). In matters concerning minority indigenous populations, a World Bank anthropologist noted that “development policies...should recognize indigenous peoples’ rights to traditionally occupied lands and other natural resources” and “[invite] the affected populations to participate in the whole development process themselves” to make sure that “they can defend themselves and their interests in their environment” (Partridge, 1990, p. 30). An emphasis was placed on local institution building with a belief that it would promote social capital for economic growth. By the late 1990s, both the development and the neoliberal economic focuses shifted towards including attention to social democracy and social justice. This shift was then applied with the adoption of some forms of decentralization (Hickey & Mohan, 2004).

Development buzzwords have been part of dominant discourses since the 1980s. For example, participation gained legitimacy in the development discourse before the

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22 “Social capital” refers to features of social organization such as networks, norms, and social trust that facilitate coordination and cooperation for mutual benefit” (Putnam, 1995, p. 67).
neoliberal agenda became dominant throughout Latin America in the 1990s (Gwynne & Kay, 2000; Leal, 2007). One of the many criticisms against the use of participatory approaches is that in the neoliberal era, participation does not deal with social equity issues and power imbalances; these become secondary in the market system (Barton, 2002). In other words, within the current economic, political, and social relations of neoliberalism, issues of human rights seem to contradict the dominant dogma. Post 1990s, the world, says a 1999 United Nations Development Programme Report (UNDP), has progressed in “defining….values – in adopting human rights and in setting development goals in the United Nations conferences on environment, population, social development, women and human settlements” (p. 2). But yet, the market, the report says, has come to dominate social and political life. The UNDP Report suggests the need “…not to stop the expansion of global markets…but] to find the rules and institutions for stronger governance—local, national, regional and global— to preserve the advantages of global markets and competition, but also to provide enough space for human, community and environmental resources to ensure that globalization works for people – not just for profits” (Ibid.).

A long list of development buzzwords appear throughout the literature on international development and decentralization in this period: ethics, equity, empowerment, inclusion, human security, sustainability, and development. But, is it even possible to achieve these under neoliberalism and under a process of decentralization that prioritizes economic growth? Can the market work for the people? Past reality points to a different direction; for example, when it comes to recording which sectors of society are most negatively impacted by the environmental consequences of development, it is
“disproportionally… the disadvantaged in society: poor people, subordinated racial
groups, indigenous minorities, women, and children” (Barton, 2002, p. 109).

Another line of criticism of the participatory development approach entails power
issues. Gaventa argues that “simply creating new institutional arrangements for
participatory governance will not necessarily be more inclusive or more pro-poor” (2004,
p. 25). Although, there have been “institutional innovations” in Peru (Bebbington, 2009),
the extent to which institutional changes are able to improve conditions of social justice
remains uncertain. Stiefel and Wolfe talk about inherent contradictions when laws are put
into practice: “on the one hand, governments face pressure from international forces to
apply more participatory and democratic policies…on the other hand, governments
understandably shy away from the power implications of participation and its inherent
potential for social conflict” (Stiefel & Wolfe, 1994, p. 212).

Ultimately, Stiefel and Wolfe argue that governments will “attempt to control
such participation and channel it into well-defined areas and forms…without the people
who are supposed to be the ultimate beneficiaries” (1994, p. 213). But, who are supposed
to be the ultimate beneficiaries of participatory arrangements? Cleaver (2001) highlights
a critical point in participatory development discourses. When advocates of citizen
participation in the management of natural resources talk about how participation is
empowering to actors, it is unclear whom the process is supposed to empower. Is it the
individual? the “community”? “the poor”? (Cleaver, 2001). This important distinction
brings up the issue of intentions on the part of the institution and policy makers, the state,
the mining company, and the NGOs.
It also is important to consider conceptual definitions of community (Liepins, 2000) and identify which definitions the different actors in use in practice. This is important because the use of different definitions by different actors can influence expectations about how communities are supposed to perform and act during the participatory processes. For example, communities referred to may be communities of place (built environment) but they can also be identified according to shared social relationships, shared identities (rural, indigenous, farmer, etc.), or as a community without a place (i.e., cyber communities). In Peru, the most important aspect of communities, often overlooked by government representatives and legislation, is that communities are not places of harmonious relationships. Communities have conflicts, may show diversity even when the majority share a culture, members may have different sources of livelihoods, etc. Rural communities are mistakenly idealized as a picture of unity. Most importantly, the idea/concept of a “homogeneous community” blurs and negates understanding of differences, especially power differences that exist in any given community of place or group (Young, 1986; see also Agrawal & Gibson, 1999). The literature on rural communities refers to this as the myth of community. Nonetheless, participatory approaches to development continue to be implemented at “the community level” with problematic results.

The growing external pressures for more inclusive measures that powerful international agencies exerted over deeply indebted countries led the Peruvian government to implement the concept of citizen-based participatory practices in state legislation for the management of natural resources starting in the late 1990s. Changes in
ideas regarding the scope of citizen participation coincided with the evolution of the concept of participation in development as discussed above.

I have tried to show here how concepts of development and neoliberalism, the role of participation as a policy objective, and the political economy of development in Latin America were the foundations of the theoretical framework within which I conducted my research. In the next section, I discuss the social, political, and economic factors that influenced the role of participation in natural resource extraction and the challenges associated with this in Peru.

**Natural Resource Governance in Neoliberal Peru**

Several factors contributed to the incorporation and inclusion of citizen participation in mining development since the 1990s. Mentioned so far are: (1) increasing disappointment among development practitioners and academics due to the failure of traditional top-down approaches, (2) influence of the decentralization wave that started in the US and spread to most of Latin America to devolve power to the local level following the return of democratic rule, (3) fiscal and governance demands from international financial institutions such as The World Bank and the Inter-American Development Bank, (4) increasing pressures from international organizations such as the United Nations and the International Labour Organization to protect rights of the poor and indigenous peoples, and (5) increasing socio-environmental conflicts involving large-scale mining projects that signaled the unsustainability of continuing “business as usual” practices.

Despite the creation of participatory mechanisms and the expectation that they will produce benefits when implemented, achieving citizen participation in the
management of natural resources poses a great challenge. As indicated above, with neoliberal policies in place Latin America’s natural resources, particularly in Peru, became increasingly attractive as a source of income generation. From the outset, increased foreign investment was welcomed and the apparent success through macroeconomic stability contributed to a “wider sense of social support and legitimacy” for neoliberalism (Gwynne & Kay, 2000, p. 146). However, shortcomings of the neoliberal model have contributed to increasing within-country inequality, the violation of human rights of the indigenous (i.e., the UN Declaration on Indigenous Rights), and environmental costs associated with grand-scale non-renewable resource extraction projects as mentioned in previous sections. These “mega projects” negatively impact indigenous communities and ecosystem diversity (García-Guadilla, 2009). Peru’s current president, Ollanta Humala, elected in 2011, ran on a left-leaning campaign that received much popular support. However, once in office his administration reaffirmed that the neoliberal policies already in place in Peru were not going to be reformed as voters expected23 (Burron, 2012). This outcome reflects Lara & López’ (2007) emphasis on the tendency in Latin America to ignore the class forces of transnational monopolies even when a populist president comes to power, and that the “…continent continues to live with the illusion that a simple change in cabinet…can bring about fundamental change” (p.21).

23 Interestingly, the new left countries (the so called “pink” countries) with anti-neoliberal, anti-globalization, and anti-capitalist discourses that advocate for social policies to reduce poverty and increase social equality, also resort to large-scale extractive projects for social development. That is, the exploitation of natural resources is needed to finance their social programs as well as to pay off debts and enter the global market (García-Guadilla, 2012).
Once neoliberalism became the dominant ideology across Latin America, it influenced not only economic policies but also the political atmosphere in which laws for greater public participation arose. Hale (2005) refers to these collective rights as “compensatory measures to the disadvantaged cultural groups…an integral part of neoliberal ideology” (Hale, 2005, p. 12). He named this phenomenon “neoliberal multiculturalism” where “neoliberalism brings forth a new direction in social policy, emphasizing the development of civil society and social capital, and an approach to cultural rights that at first glance appears highly counterintuitive” (Ibid.). So, on the one hand the socio-political discourse in Latin America pointed towards social equity and economic benefits for the poor and the culturally disadvantaged, but on the other hand economic neoliberal policies were in place “to construct a regulatory regime in which the market is the principal means of governance and the movement of capital and goods is determined as much as possible by a firm’s short term gains” (Mann, 2013, p. 148). If the end goal in a neoliberal economy is to serve the market, the government will do whatever it takes to make sure that there is as little opposition as possible to this end.

In the Peruvian case, the model of extraction of natural resources could be considered a violation against indigenous rights, especially since they are the ones who suffer the greatest consequences of extraction in their territories. Yet the Peruvian state’s position echoes the “general thrust of any capitalistic logic” which is that “territories should [not] be held back from capitalist development, but that they should be continuously opened up” (Harvey, 2003) even if they also are granting new rights to disadvantaged sectors of society. Does this mean that the Peruvian government, by allocating participatory rights to local communities in extractive regions, is
systematically reaching out to those communities and territories in order to integrate them into the capitalistic logic of neoliberalism?

Analysis of the implementation of participatory and democratic practices in the management of natural resources, particularly in mining, is a thorny subject in Peru and in other countries heavily reliant on resource extraction development. The stakes are incredibly high in the mining sector not only for those who depend on the land for subsistence and income generation or for cultural survival, but also for state and national elites, given the attractive option of mining as an excellent source of revenues and integration into the global market (Larson & Ribot, 2005). The real national level socio-political and economic context guarantees a challenging environment for people who try to take advantage of the legal and extralegal spaces of negotiation and decision-making. The case of mining development in Peru is, therefore, a unique opportunity to examine the complex relationships among multiple actors on the local and community levels within the larger framework of social, political, and economic interests at play.

**Research Design and Analytical Framework**

In the preceding literature review I provided details on the social (indigenous), political (Peruvian democracy/decentralization), and economic context (neoliberal economics and mining) in which I analyze participation in mining. In this section, I describe the process that guided me during fieldwork and analysis of both primary and secondary research data.

Borrowing from Albeson and Gauvin’s (2006) model for measuring effectiveness of public participation, I focused on three evaluation steps: “context, process, and outcome.” In Bowness and Hudson’s (2014) research on power and public participation,
they conceptualized “context” as referring to the factors (these may be political, economic, social, and environmental) that influence implementation of public participation. They conceptualized “process” as involving rules that outline forms of participation, actors involved, and timeline, among other requirements. The final step is the evaluation “to determine whether the public was meaningfully involved and actually exercised power in the decision-making process” (p. 62). This framework was a perfect fit to organize my research and my findings, place the primary and secondary data within the context already discussed in the literature review, and evaluate both intended and unintended outcomes of participation in mining projects.

To examine the participatory requirements that the Peruvian state demanded of mining companies to obtain legal approval for large-scale mining projects, I was able to use existing information from legislation and government policies. Through a detailed examination of the legislation and policies, I sought to determine whether within the government mandated rules, there would be spaces where ideals of citizen participation and devolution of power would be practiced. To examine whether impacted community members and residents engage in transformative opportunities (for social, political, or economic benefits) and in a mutual and respectful exchange and process based on the ideals and intentions of the laws, I conducted fieldwork so that I could compare what was actually happening during the processes compared with what was described in policy documents and laws.

As a result, my analysis is presented in two parts: (1) an in-depth document analysis of legislation and policies in Chapter 3 and (2) an ethnographic based case study, which includes interviews and participant observation, in Chapter 4.
Methods

For document analysis, I accessed relevant laws, norms, and regulations that concern citizen participation in mining development. These included a series of laws and guidelines for implementation published by the Peruvian government since the mid-1990s. I also reviewed studies of the legislation in place and, during interviews with former government representatives and NGO representatives, I inquired about their experiences when present during the participatory meetings mandated by law. In Lima, I interviewed MEM employees from two divisions: one responsible for evaluating environmental sections of EIAs and the other one for handling disagreements among stakeholders regarding social issues. I was unable, however, to find any audio or video documentation of past participatory meetings.

I first examined the evolution of citizen participation in mining sector legislation, followed by an examination of participation in the current legislation corresponding to each of the phases of a mining project (concession, exploration, exploitation, and closing). It was important to analyze legislation because of the way it establishes the rules of the game in negotiations between a mining company, government agents, and community members and it lays out the rewards and penalties for compliance or non-compliance. In addition, laws and regulations are created within certain economic, political, and social contexts that legitimize or delegitimize citizenship and collective rights of specific actors in Peru. It was important to understand each law within its specific context (historical moment) as well as the progression in the content of successive laws and policies. Also, understanding current practices of participation in mining development and whether or not laws are implemented as written may inform future practices to avoid problems and
failures in the future, for example for implementing the Law of the Right to Indigenous or Native Populations to Prior Consultation. I considered it of critical importance to look for trends and explanations for how legislation was implemented or circumvented and the resulting impact for the issue of social justice.

Based on Gaventa’s (1980, 2004) model of the visibility of power relationships, I determined it was necessary to examine in the field the actual implementation of legal requirements for participation, the obstacles, and the outcomes. Gaventa’s three-dimensional approach was useful to unveil not only the (1) effect that participation has on project development, but also (2) how power relationships have an impact on the ability of community members to make their own decisions about mining development. In this approach, it is important to examine first and second dimensions of power where “contests over interests are assumed to be visible in public spaces, which in turn are presumed to be relatively open” (Gaventa, 2004, p. 37). Also important is how certain interests have priority over others in decision-making (Gaventa, 1980).

In order to obtain a full picture of the implications of participatory legislation, I conducted semi-structured interviews (17), attended community meetings (3), and wrote field notes from participant observations. In order to represent an array of perspectives, I interviewed four sets of actors involved in the processes of decision-making in mining development in Peru: government representatives, NGO workers, community members, and mining company representatives.

By conducting semi-structured interviews, I sought to obtain information on practices and relationships that affect mining impacted Andean communities and different actors’ perspectives on the importance of participation. Most importantly, I
wanted to learn what each interviewee thought and what s/he experienced in the implementation of meetings required by law. It was through this practice that I learned that there were other issues that they wanted to share or wanted me to know about. Semi-structured interviews allowed me to listen to them and show respect for their concerns. (See Appendix A for the semi-structure interview questions used).

**Selection of the Research Site: Why Apurímac, Peru?**

Mining investment in the Apurímac Region has been growing over the last four years. Apurímac has the largest percentage of land held by mining concessions (68%) (CooperAcción, 2014). In other regions such as Cajamarca, Arequipa, and Moquegua, large scale mining has had an important economic role since the 1990s. In Apurímac, however, due to only recent development and investment in new copper mining projects, the presence of a mega-scale extractive industry is relatively new to local residents. Furthermore, Apurímac, along with the Huancavelica Region, remains one of the poorest regions in the country (Instituto Nacional de Estadística e Informática, 2015). Given the current political and economic context, there are plans for the mining industry to continue in this region. Studies to understand how current practices in the area impact local communities can document problems that need to be addressed in the interest of social justice.

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24 According to the technical report published by the Instituto Nacional de Estadística e Informática 2009-2014 (Perú’s National Institute of Statistics and Computing), Apurímac placed in the group with the highest poverty rate. Starting in 2013, Apurímac moved to the second poorest group of regions in the country. These data coincide with Xstrata’s mining project investment in Las Bambas located in Apurímac (Ministry of Energy and Mines, 2013).
The Setting and Preparing for Fieldwork\textsuperscript{25}

In 2013, I travelled to Peru to conduct exploratory research over a two-month period. I had two main objectives: first, refine my research question and, second, find local non-profit organizations that were involved with places and people impacted by mining activities in order to foster a relationship for future research. In summer of 2014, I returned to Peru for nine weeks between May and August to conduct fieldwork in Lima, Cusco and Apurimac regions (see Figure 3 below). I was based in Cusco where I arranged an affiliation with a local NGO, Centro Bartolomé de las Casas (CBC).

\textsuperscript{25} Initially I had hoped to analyze the implementation of the Law of Prior Consultation passed in Peru in late 2011. This is a law based on the international agreement on free, prior and informed consent for indigenous communities to have a say on any project that affects them directly. However, as I later found during my exploratory research, implementation of the law was delayed and there were no plans to implement it in Peru’s Andean region.
Figure 6 Research Sites in Peru

Credit: The map was created in 2015 at The Ohio State University by Oliver Wigmore using GIS.
Chapter 3: Citizen Participation in Mining Sector Legislation

Introduction

I first decided to look at the legislation pertaining to participation in the mining sector because of the legally binding requirement that mining companies must abide by in order to obtain mining permits in Peru. The participatory legislation in Peru outlines the requirements set for mining companies to interact with and integrate local residents impacted by mining activity. In the case of Peru, citizen participation guidelines are part of the required environmental impact assessments and constitute a legal agreement between the government and the mining company operations. Peru, in an effort to attract foreign investment, it seeks to create an environment supportive of economic growth while at the same time enforcing minimum legislation to assure rights to participation (as I reviewed in the discussion of the evolution of participation in mining development in Chapter 2).

One of the praised moves in Peru’s legislation in recent years has been the passing of the Law of the Right to Indigenous or Native Populations to Prior Consultation (Law 29785) in September of 2011. This law is based on the principles of ILO-International Labour Organisation Convention 169 Indigenous and Tribal Peoples Convention, 1989, ratified by Peru in 1994. Passed during a tumultuous period of social conflict for the
extraction of hydrocarbon and minerals, Peru became the first country in the world to pass such a law. However, there are serious shortcomings as President Ollanta Humala stated in 2013:

“[P]orque hay comunidades vulnerables pero el problema es definir quiénes son comunidades nativas y cuáles no. Con tanta informalidad que hay todo el mundo quiere ser consultado porque le puede dar cierto poder de negociación...la ley de consulta previa es para los pueblos originarios o comunidades indígenas. No necesariamente una población califica...en la costa, no hay comunidades nativas...en la sierra, la mayor parte son comunidades agrarias, producto de la reforma agraria, etc. Más que todo comunidades nativas se dan en las zonas de selva con estas poblaciones...que muchas veces se llamaban no contactados, pero hoy día con la infraestructura y la modernidad estamos tratando de articular a todas las comunidades” (Ollanta Humala, 28 April 2013, Interview in TV Perú).

“[B]ecause there are vulnerable communities but the problem is to define which are indigenous communities and which are not. With so much informality around, everyone wants to be consulted because it could give bargaining power...the law of consultation is for native peoples or indigenous communities. Not necessarily any community qualifies...on the coast, there are no native communities...in the mountains, most are agrarian communities as a result of the land reform, etc. Most all native communities are found in the jungle...they used to be called non-contacted, but nowadays with infrastructure and modernity we are trying to articulate all communities” (translated from Spanish).

Humala’s statement was highly controversial because it brought to light the views of a political majority\(^\text{26}\) that were opposing the implementation of the law that recognized the rights of the indigenous in Peru. The situation became particularly tense between the Ministry of Culture and the Executive Office when the former Intercultural Vice-Minister, Iván Lanegra, supported the implementation of prior consultations for Quechua-speaking communities that would be impacted by mining activities. Meanwhile, in the news was a

\(^\text{26}\) Just two years prior to Humala’s first presidency, the social and political environment became extremely tense when the preceding president, Alan García, passed a set of decrees to loosen restrictions on land rights in the Amazon region. These decrees created opposition from indigenous organizations that claimed the decrees were violating their rights and Convention 169.
discussion of whether the prior consultation law would block mining investment in the Andean region. In 2013, Lanegra quit his post signaling to the political community that there were important disagreements among the Ministries of Culture, Finance, and Energy and Mines. This was similar to an episode that took place in 2011 when the Vice-Minister of Environment, José de Echave, quit his post following disagreements over management of a socio-environmental conflict in the northern Andes.

A controversial component of the Law of the Right to Indigenous or Native Populations to Prior Consultation was the creation of a database of indigenous communities that identified which groups qualified as indigenous for purposes of a consultation. ILO Convention 169 left this criteria to be determined on a country by country basis. But their guidelines for defining eligibility were broad. ILO Convention 169 stated that an indigenous groups’ self-identification was a fundamental criteria as well as a “traditional life style,” they have their “own social organization and political institutions”; and are “living in historical continuity in a certain area” or before others “invaded or came to the area.” Based on the ILO’s suggestions, Peru’s legislation determined that to identify indigenous groups there would be both subjective and objective criteria. The subjective criteria involved the “consciousness of the collective group to possess an indigenous identity” (Article 7). The objective criteria were determined as follows:

a) direct descendants of indigenous populations of the country;

b) lifestyle, spiritual and historical ties with the territory traditionally used or occupied;

c) social institutions and customs;
d) cultural patterns and way of life different from other sectors of the national population.

The ILO’s language was vague and general yet the language adopted by Peru’s law became stricter and focused on certain aspects of how to define an “indigenous” group. Emphasis was placed on a direct link to the land they were occupying at the time and having the “consciousness” of a collective identity as indigenous. These two items are highly controversial because it is known that historically indigenous groups have been displaced during and since Spanish colonization and, second, that there is a major stigma against identification as “indigenous” in Peru that is related to social class and racism present throughout Latin America since colonization. Also as a result of the agrarian reform, indigenous groups became categorized as peasant farmers instead of as indigenous. This means they can be excluded from claiming indigenous status. Quijano (2007) refers to this process as the result of the “cultural coloniality” that European colonizers imposed in Latin America through massive extermination and cultural repression.

During my exploratory research in 2013, the recognition (or lack thereof) of who was indigenous was a main point of debate in both the mainstream media and in academic and NGO circles.\textsuperscript{27} Anthropologists, sociologists, lawyers, government representatives and some mining company representatives debated the definitions and concepts of the indigenous in Peru. Meanwhile, the Ministry of Culture continued the

\textsuperscript{27}There are competing definitions as to who is indigenous in Peru. Andean communities have been labeled as peasants while communities from the Amazon have been labeled as indigenous. Indigenous identity has been a controversial issue especially, following the approval of the Law of Prior Consultation. For example, peasants have been excluded even when they claim indigeneity and the self-identified as indigenous continue struggling to claim their rights to this identity.
process of building the database of indigenous groups in Peru. To date, there have been two consultation projects based on Law 29875 in the Amazon and only vague plans for implementation of the law for mining projects in the Andes.

Given the lag in the implementation of the Law of the Right to Indigenous or Native Populations to Prior Consultation in Quechua-speaking communities at the time of my research, I decided to turn to the mechanisms that were already in place for opportunities of participation. These laws and policies for “citizen participation in the mining sector” are implemented throughout the Peruvian Andes. They are legally required as part of the approval process for environmental impact assessments, and I considered them as a good starting point to begin examining whether such participatory spaces held up to the expectations and the intentions of the laws and how they actually may impact communities in designated areas of influence. My focus in this analysis is limited to large-scale mining projects overseen by the State at the federal level. While regional level governments participate in environmental impact assessment meetings, they are not responsible for evaluating or approving any large-scale projects. For medium and small-scale mining projects, the equivalent of the federal office, the Regional Office of Energy and Mines (DREM), of each region is responsible.

In this chapter, I present my analysis of legal and policy documents in two parts. First, I examine the evolution of participation in mining norms and legislation since its adoption until now, focusing on the influences that contributed to the adoption of a specific measure as well as the intentions for the adoption. Second, I lay out the current laws and norms that apply to participatory requirements in the life of a mining project from concession granting through the closing phase. The exercise of constructing a
timeline was helpful to look into the accumulated long term impact of laws, to identify patterns and indicators of whether the claimed benefits of citizen participation actually result in opportunities to benefit communities in a mine’s area of influence or, alternatively, whether participatory meetings remain merely a tool to fulfill a legal requirement.

My analysis is based on legislation that has been formally approved and which stipulates details about who is the party responsible for implementation, how it will be implemented, when it will be implemented, and who will fund the process. There are three main types of norms and laws analyzed in this chapter: Decreto Supremo (a Supreme Decree), Ley (a Law), and Resolución Ministerial (a Ministerial Resolution). According to the Ministerio de Economía y Finanzas webpage, a Supreme Decree refers to general norms that regulate sector activity at the national level. A Law is a norm approved by Congress in the exercise of its legislative powers and using the procedure outlined in the Constitution. A Ministerial Resolution is a norm approved by a Minister of State regarding policies of national interest for the sector under his/her charge. See Table 1 below.
<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Target</th>
<th>Description</th>
<th>Suggested Method</th>
<th>Suggested Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>Peru's Constitution</td>
<td>The people of Peru</td>
<td>“Natural, renewable and non-renewable resources are patrimony of the nation. The State is sovereign in its use. By organic law the conditions of its use and its granting to individuals are established. The concession grants the holder a right, subject to this statute” (Article 66)</td>
<td>No mention of participation</td>
<td>No mention of participation</td>
</tr>
<tr>
<td>1993</td>
<td>DS 016-93-EM By-laws for the Protection of the Environment</td>
<td>Mining companies and Ministry of Energy and Mines (MEM)</td>
<td>Environmental impact assessments as a requirement for exploitation and extension of a mining project</td>
<td>No mention of participation</td>
<td>No mention of participation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Indigenous peoples to be consulted on issues that affect them</td>
<td>Dialogue</td>
<td>Influence decisions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Indigenous peoples should be “able to engage in free, prior, and informed participation in policy and development processes that affect them” (ILO)</td>
<td>Full participation</td>
<td>Conflict prevention and resolution</td>
</tr>
<tr>
<td>1995/1996</td>
<td>Law 26505; DS 017-96-AG By-laws of Law 26505’s Article 7 Mining easement and private investment</td>
<td>Indigenous and peasant communities</td>
<td>Prior agreement required before mining project begins</td>
<td>Seek agreement between mining company and property owner</td>
<td>To promote private investment for economic development on national territories, indigenous lands, and rural lands</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>“Peasant and Native Communities are free to adopt by majority agreement of its members the business organization model, not being subject to compliance with any prior administrative requirement” (Law 26505)</td>
<td>After 30 days, if there is no “prior agreement,” the company will contact the General Office of Mining to arrange for a conciliation meeting</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Mining or hydrocarbon easement activities</td>
<td>Opening-up the channels of communication</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>If they follow the servidumbre protocol, the landowner is to be compensated by mining company</td>
<td>Emphasis on individual, not communal</td>
<td></td>
</tr>
</tbody>
</table>

*continued*
### Table 1 Continued

<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Target</th>
<th>Description</th>
<th>Suggested Method</th>
<th>Suggested Objective</th>
</tr>
</thead>
</table>
| 1996 | RM 335-96-EM/SG                  | Public, private and communal institutions                   | Citizen Participation By-laws for the approval process of EIAs              | Public hearing with prior authorization only           | Informative  
To collect opinions  
Direct intervention on environmental management matters |
| 1999 | RM 728-99-EM/VMM Citizen participation by-laws during approval process of EIA | Open to all citizens, participants must sign in on the day of the hearing | EIA presentation at the closest location to the mining project, “if possible”  
Distribute copies of executive summary at hearing  
Mining companies to make EIA available for public access | Public hearing  
Access to EIAs and EIA executive summary  
Submission of questions in written form during public hearing | Participation for all citizens  
Right to information  
Right to intervene in defining environmental protection management |
| 2002 | Law 27783 Bases for Decentralization | All citizens                                                 | Regional and local governments to promote citizen participation in the planning, discussion and finalizing of development plans and budgets, including political, social, and environmental projects | Access to public information  
Consultation  
Monitoring  
Evaluation  
Accountability | “Comprehensive, harmonious, sustainable development, and a balanced power for benefit of the population” (law’s language) |
| 2002 | RM 596-2002-EM/DM By-laws of Consultation and Citizen Participation Regulations | All citizens                                                 | “active compromises of citizens” in EIA approval procedures  
DGAA to implement consultation and participation procedures | Citizen consultations  
Informative workshops or meetings  
Before, during, and after EIAs  
Public audience during EIA approval process | Informative  
Gather opinions systematically  
To find out perceptions and concerns of the people |
| 2003 | DS 042-2003-EM                   | Regional authorities, local authorities, residents from area of influence | “...establish a frame of reference in which mining activity may develop respecting the environment and responsibly managing the social impact to benefit all impacted people” (042-2003-EM) | 1. Aim for environmental excellence  
2. Act with respect towards institutions, authorities, cultures and local traditions | Respect for the environment, the social environment, and achieve mechanisms for dialogue and participation (042-2003-EM) |

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1 Modified in 2010 by Supreme Decree DS 052-2010-MEM/DM.
<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Target</th>
<th>Description</th>
<th>Suggested Method</th>
<th>Suggested Objective</th>
</tr>
</thead>
</table>
| 2005   | Law 28611 Environmental Law     | All citizens, including indigenous, rural, and native peoples | - Right to participate in decision-making processes related to environmental measures  
- Government responsible to promote participatory mechanisms to make accessible relevant information through suitable means  
- To protect the rights of indigenous, rural, and native peoples through adoption of necessary measures to avoid the loss of cultural, social and economic integrity and traditional values | - Public audience  
- Mutual agreements | - “For the continuity and prosperity of mining activity, as one of the most important channels that the state counts on for economic development and the improvement of the social well-being of the country” (042-2003-EM) |
<p>| 2008   | Legislative Decree 1078         |                                             | - Ministry of the Environment is created; however, without jurisdiction over mining activities |                                                                                  |                                                                                  |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
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<th>Description</th>
<th>Suggested Method</th>
<th>Suggested Objective</th>
</tr>
</thead>
</table>
| 2008   | D8 028-2008-EM RM 304-2008-MEM/DM By-laws for citizen participation in the mining sector | Regional authorities, local authorities, local communities | - Regulates participatory mechanisms and actors | - Planning and submission of Participation Plan for the entire life of the mining project  
- Community Relations Protocol required as part of EIA approval process by mining company | - Informative  
- Consultation |
| 2010   | D8 052-2010-MEM/DM Modification of Prior Commitment requirement for mining companies | Regional authorities, local authorities, local communities | - Language for prior agreement modified  
- Citizen participation is extended to EIAsd modifications | - Contribute to economic diversity in the areas of influence | - Increase engagement and collaboration between mining company and people in areas of influence  
- Increase participation  
- Emphasis on local sustainable development |
| 2011, 2012 | Law of Prior Consultation 29785 and By-laws 001-2012-MC | Peruvian state, indigenous and native peoples | - Inclusion of indigenous or native populations in state’s decision-making processes and in the adoption of activities respecting their collective rights | - Intercultural dialogue | - Reach an agreement or obtain consent between the state and indigenous or native population in regard to any administrative or legislative activity that affects them directly |

Environment and Citizen Participation

The 1993 Peruvian Constitution declares that the State is the sole owner of all renewable and non-renewable natural resources and is sovereign in every decision made about use and exploitation. Therefore, the State may grant concessions to private entities as the State sees fit, including granting concessions for mining development. However, when there is private property in dispute for the use of sub-soil resources, the State recognizes that there has to be a prior agreement for surface land use. The agreement should be between the surface property owners (and other occupants with rights), and the party responsible for the exploitation of the sub-soil resources--in this case a mining company (Land Use Law 26505). This law recognizes that indigenous and peasant groups are free to implement a majority decision to come to a “prior agreement” with the mining company, usually a 2/3 majority. However, it also establishes that in the case that there is no prior agreement reached, the mining company may call for a “servidumbre minera” (mining easement).

If after 30 days of negotiations there hasn’t been an agreement reached with the property owners, the mining company may contact the Mining General Office (a branch of the MEM responsible for regulating and promoting mining activities) to start a conciliation process to reach an agreement within ten days. If within those ten days there is no reached agreement, the Mining General Office may contact the Regional Office of Agriculture to implement the mining easement strategy within a 30 day period.

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28 In Peru, mining easement refers to an administrative process that allows the concession holder to perform activities on land that is not their own as long as ownership rights are not invalidated. One example is private lands dedicated to conservation.
One of the local NGOs, Cooperación, developed guidelines for communities on their rights in the laws. A NGO staff person told me that the mining easement strategy has never been enforced. However, it serves as a threat to force communities to remove barriers or complications in the negotiation process and to lease or sell their lands (Schaeffer, 2013). The objective of the law was clear: to “promote private investment for the development of economic activity on national and indigenous and peasant lands” (Land Use Law, Article 1). This law’s emphasis on individual landownership over communal ownership has become a source of conflict when negotiating with indigenous communities, in this case in the Andean region.

In the same year that the current Constitution was established (1993), the By-laws for Environmental Protection in the Metal-Mining Sector (DS 016-93 EM) were passed. These by-laws established environmental impact assessments (EIA) as a requirement for mining exploitation and expansion of a project, assigned the Ministry of Energy and Mines (MEM) as the sole government entity to oversee and evaluate EIAs, and decreed that MEM has a maximum of 45 days to review the study. If the MEM doesn’t complete the review of the submitted EIA within that time frame, the study is automatically approved. Even though the government started implementing environmental oversight measures in 1993, it left decision-making power to manage the oversight process (from review to approval) to the same entity (MEM) that was in charge

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29 Cooperación is a Peruvian NGO that promotes sustainable and inclusive development that allows the exercise of all the rights (social, environmental, political, cultural, and economic) geared towards the indigenous concept of “buen vivir” (good living).
30 Alan García’s administration replaced this law with Supreme Decree 1064 where the prior agreement requirement was eliminated for the use of above ground communal lands for mining and hydrocarbon activities. Following multiple protests by indigenous organizations, this decree was repealed.
31 By-laws are a legal tool that determine the mechanisms by which a specific law or norm is going to be implemented.
of promoting the activity. This decision clearly depicts the close ties existing between Peru’s government and the private mining sector and this marked the beginning of a long-term plan of economic development in Peru heavily reliant on foreign direct investment and a full integration in the global competitive mining commodity market.

As mining investment continued to increase in Peru in the mid-1990s, the first official legislation requiring “participation” of those impacted by a mining project was passed (Ministerial Resolution RM 335-96-EM/SG). The stated objective was to gather opinions from organizations representing diverse sectors of society so that they could be involved in environmental management measures. The implementation of a public hearing on the EIA was mandated but only those with a prior authorization were allowed to attend.32 Also, the EIA executive summary was accessible only to attendees. The hearing did not support the intended outcome of the law; instead, from its inception, the legislation’s intent was distorted. How could there be genuine participation in environmental management measures if participation was controlled and limited?

Three years later, the range of the participants was expanded to include all citizens in public hearings and for all parties to have access to all EIA executive summaries. Yet, the space for “participation” remained highly controlled quarters recreating an authoritarian style with an authority figure at the front and the masses in the back. Genuine participation in Andean communities normally is practiced by forming a big circle where everybody is able to see everybody else. In contrast, the mining legislation has used participation to refer to any type of event in which a community member was present in a room at the same time as a “public” meeting was taking place.

32 Prior authorization required writing to MEM and receiving written permission.
This did not include any consideration of whether those present had any concerns or questions about the activities to take place on their community lands.

In 2002, coinciding with the shift in development and neoliberal discourses to include social justice principles, a new law, Law of the Bases of Decentralization 27783, was established. It referred to citizen participation and, interestingly, inserted the issue of power. Article 3 stated that the decentralization process’s main objective was for a “…comprehensive, harmonious, sustainable development, and balance of power for the benefit of the population” (Law of the Bases of Decentralization 27783). The language in this document marks a significant change that mirrors shifts in political and social policies aimed at decentralization efforts across Peru. This law targeted regional and local governments to promote citizen participation in the planning, discussions, and finalizing of development plans and budgets, including for political, social, and environmental projects. The suggested strategy to achieve political, administrative, and fiscal decentralization was through the implementation of consultation meetings, monitoring committees, evaluation processes, and accountability measures. This law exemplified, therefore, a shift to seemingly give a voice to a larger section of the population through an array of different methods other than the previously-mandated public hearings. Also, given the reference to balance of power in the law, the language used suggests that policy makers sought to implement these methods to achieve a more just and democratic process of decision-making for citizens. Additionally, this shift of focus illustrated an attempt to create stronger institutional governance as the United Nations Development Programme outlined in its 1999 Development Report. Whether this shift would influence reality in the mining sector has remained unclear.
White (1996) and Pretty (1995), created a typology of participation based on its effectiveness “…as a measure of citizenship and a means of empowerment” (p. 1624). I have utilized Agarwal’s table as a reference tool in my analysis to differentiate the types of participation in each of the norms and laws in contrast with the type of participation that actually takes place.

Table 2 Agarwal’s Participation Typology

<table>
<thead>
<tr>
<th>Form/Level of participation</th>
<th>Characteristic features</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nominal participation</td>
<td>Membership in the group</td>
</tr>
<tr>
<td>Passive participation</td>
<td>Being informed of decisions <em>ex post facto</em>; or attending meetings and listening in on decision-making, without speaking up</td>
</tr>
<tr>
<td>Consultative participation</td>
<td>Being asked an opinion in specific matters without guarantee of influencing decisions</td>
</tr>
<tr>
<td>Activity-specific participation</td>
<td>Being asked to (or volunteering to) undertake specific tasks</td>
</tr>
<tr>
<td>Active participation</td>
<td>Expressing opinions, whether or not solicited, or taking initiatives of other sorts</td>
</tr>
<tr>
<td>Interactive (empowering)</td>
<td>Having voice and influence in the group’s decisions</td>
</tr>
</tbody>
</table>

Source: Agarwal, 2001, p. 1624.

According to the decentralization laws, the type of participation that it sought to implement falls under the “interactive (empowering) participation” level. Using this typology, we can see that the method used actually fits under the level of “consultative participation” and “activity-specific participation.” Information from interviews will confirm this in the next chapter.

In 2002, the by-laws of consultation and citizen participation in the mining sector (RM 596-2002-EM/DM) were expanded to strengthen the participation of citizens in the approval of environmental impact assessments for mining projects. Reflecting the
foundations of the decentralization law, MEM required mining companies to implement consultations and participatory meetings before, during, and after the environmental impact assessment, in addition to the required public hearing. This law clarified, however, that such consultations and other participation would not give citizens the right to veto mining projects. The stated objective of updating the by-laws was to reinforce established rights defined in the Peruvian Constitution, Article 2, where it recognizes the “right to access public information and to participate individually or in an association in the political, economic, social, and cultural life of the nation” (RM 596-2002-EM/DM).

However, the level of discourse remained at the “consultative participation” level at best. “Consultations” were meant to: inform, create dialogue, and “enable knowing citizens’ perceptions and inquiries,” while “participatory meetings” were meant to “provide information and systematically collect opinions” (Article 2).

The following year, additional requirements for participation were passed through Supreme Decree 042-2003-EM. These additions and expansions of regulations in the mining sector reflected not only the increasing importance of inclusion and social democracy but also reflected the emphasis in neoliberal reforms on “good governance” to sustain economic growth (as I indicated in the previous chapter, neoliberal policies sought to create rules to integrate social values into a growing global market.) As expected, the new decree adapted concepts already in use by international development practitioners and in international development agencies such as: seeking environmental

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33 For example, the World Bank’s International Finance Corporation published Guidance Note F: Guidance for Preparation of a Public Consultation and Disclosure Plan in 1998 where it established how to “…meaningfully consult with stakeholders on preparation and results of...EA [environmental assessments]...Ongoing consultation is also required during the construction and operation phases of the
stewardship, recognizing and respecting local traditions, and maintaining dialogue with all the parties involved. The Peruvian government included these concepts to enforce mining companies to require a “prior commitment/agreement” with the impacted populations because it is “…necessary to the continuity and prosperity of mining activity, as one of the most important channels that the state counts on for economic development and the improvement of the social well-being of the country” (DS 042-2003-EM). The Peruvian government thus called attention to social development through dialogue and participation even while creating a positive economic, political, and social environment for continued investment in mining activities. And, for the first time the Peruvian government required mining companies to “…create a plan for social development…beyond the mining activity” (DS 042-2003-EM). That is, neoliberal economic policies continued developing, so did policies addressing social needs to integrate all levels of society into a functioning international economy. Even though the 2003 law introduced new requirements for social development in Peru’s legislation, by the early 2000s mining companies were already establishing corporate social responsibility (CSR) programs34 emphasizing the need to invest in local communities’ social and economic development programs.

34 CSR programs included investment in social programs for the areas impacted by mining activities. For example, Rio Tinto has made monetary contributions for socio-economic programs in communities of impact. The programs focus on health, education, environmental protection, housing, and agricultural and business development. On their website they state that: “[They] work from a common Communities and Social Performance framework of building knowledge, engaging with communities and developing programmes. Work on the ground varies according to the local context” (Rio Tinto, n.d.).
By 2005, Peru’s GDP was at the highest level in its history. That same year, the Law of the Environment was passed by Congress (General Law of the Environment 28611). Article 3 addresses the right of all citizens to participate in environmental management. As the continuation of the trend in stronger institutional mandates, this law included more dimensions of participation. First, it establishes a need to come to “mutual” agreements between the parties involved, the “right to participate” in decision-making processes, establishes compensatory benefits for land use and avoidance of loss of the cultural, social, traditional and economic integrity of the indigenous and peasant peoples. The Environment Law addresses the rights of both groups, which had not been referred to since the “prior agreement/commitment” law (DS 017-96-AG) and Peru’s approval of International Convention 169 in 1994. It highlights the potential cultural aspects that may be at risk in resource extraction activities and environmental management activities. In Agarwal’s typology of participation, the General Law of the Environment made a step towards “interactive (empowering) participation” in that it recognized the need to address the multiple dimensions associated with the impacts of large-scale extractive projects.

Three years later, the Ministry of the Environment was created (2008). Transfer of responsibilities took place during this period. However, not surprisingly, environmental issues related to the mining sector stayed within the jurisdiction of the Ministry of Energy and Mines. EIAs continued to be reviewed and approved by the MEM. This particular arrangement is still highly contentious and represents a significant conflict of interest. For example, this arrangement contributed to a major social and environmental conflict that erupted in the northern highlands in 2010 between the mining company Newmont, local
and regional organizations, and the national government. That same year, the most recent Supreme Decree (DS 028-2008-EM) on citizen participation in the mining sector was passed. In addition to all of the previous decrees, this last one included the creation and submission of a Participation Plan and a Relations Protocol as part of the EIA approval process (more details on this below).

I have so far examined the context and evolution of citizen participation in mining sector legislation. This provides understanding of the political, economic, and social influences that led to changes in the legislation. This analysis served as my first step to determine whether the stated objective of the current laws were practiced and experienced in reality.

Next, I continue my document analysis with a detailed examination of the current legislation for participation in mining projects by drawing a timeline of the life stages of

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35 In late 2010, local level protests began following approval by the Ministry of Energy and Mines (MEM) of the environmental impact assessment (EIA) submitted in support of the Conga project by Yanacocha (mining company). The Conga Project is part of the Yanacocha mining complex located in the Cajamarca Region in the northern Andean highlands. Yanacocha, operating since 1993, is the second largest gold mine in the world, and the largest gold mine in South America. It is co-owned by Newmont (51.35%), a US-based company, Compañía de Minas Buenaventura (43.65%), a Peruvian company, and the International Finance Corporation (5%), a financial institution part of the World Bank Group (Newmont Mining Corporation, 2014). This consortium is seeking to exploit previously untouched copper and gold fields. The proposed exploitation areas would significantly impact water basins and fragile ecosystems as indicated by a formal review completed by the Ministry of Environment following a thorough review of the project’s EIA (De Echave & Diez, 2013).

The EIA approval was highly contested by the multiple local communities that would be impacted directly and indirectly. Multiple organizations, local government officials, and community representatives claimed that the social and environmental impacts of the project have been seriously underplayed. The Ministry of Environment’s report highlighted that the environmental impact in Conga project’s EIA had been classified as “very low to moderate” but this would not be the case because the study did not take into consideration the location of the project (in a water basin area) and the fact that the whole region is a fragile ecosystem. In addition, four high altitude lakes would disappear (De Echave & Diez, 2013). It became evident that the Ministry of Energy and Mine’s authorization lacked rigorous evaluation of the social and environmental impacts. Following the Ministry of Environment’s questioning of the EIA in November of 2011, a regional protest was convened to oppose the Conga project. In December, the first state of emergency was declared in four provinces in the region. Protests across the region continued; by mid-2012, five protesters had died and dozens were hurt (De Échave & Diez, 2013). At the time of this writing, the Conga project has ceased activities.
a mine: concession, exploration, exploitation, and closing. This timeline allows me to study the legislation as it is supposed to be practiced today and to evaluate the process.

To assemble this timeline (see Figure 4), I consulted legislation currently in place on the Ministry of Energy and Mines’ website, mining projects’ environmental impact assessment documents\(^\text{36}\) outlining the norms and regulations that they followed, as well as documentation that interviewees provided during my interviews:

1) Citizen Participation Law in the Mining Sector (DS 028-2008-EM)
2) By-laws that regulate the process of citizen participation in the mining sector (RM 304-2008-EM/DM)
3) Transparency, Access to Public Environmental Information, and Citizen Participation in Environmental Matters Decree (DS 002-2009-MINAM)
4) Law of the Right to Indigenous or Native Populations to Prior Consultation, as recognized in ILO Convention 169 (not currently implemented in the Andes region).

**Timeline for Mining Concessions, EIAs, and Requirements for Participation**

Once the national government grants a mining concession, both MEM and the mining concession holder must

“…inform town dwellers from the areas of the concession about the rights the mining company has been granted as a concession holder, of the environmental liabilities of the activity, of the laws that govern the activity, of the rights of the involved towns’ residents, of the phases of the activities and the applicable technologies in such a manner that residents have timely, true, and impartial information” (Article 12, DS 028-2008-EM).

\(^{36}\) An exploratory mining EIA from Apurimac stated that, in addition to national legislation about participation in mining, it also used international principles as guidelines, such as the Equator Principles and the International Finance Corporation’s Principles
The responsibility to advise residents from areas of mining activity influence falls to both the mining concession holder and government agencies.\textsuperscript{37} There are, however, early conflicting interests at this stage. For one, mining concession holders are in possession of the concessions for an unknown period of time before they begin exploration activities. In most cases, companies that hold mining concessions and perform exploratory activities tend to be smaller firms that then sell to larger companies for future exploitation.\textsuperscript{38} As I found out through fieldwork, mining companies provide information to residents within their areas of influence only about the short-term activities. This indicates that engaging with community residents at an early stage by a company that will then sell mining rights to another company enables both companies to evade discussions about potential impacts of longer-term future activity. Discussing these are not in the interests of either mining company; it allows them to avoid longer-term issues and responsibilities.

The next step would be implementation of the Law of the Right to Indigenous or Native Populations to Prior Consultation but, as indicated earlier, it is not currently being implemented in the Andes (only in the Amazon). Article 6 from the law’s by-laws states that “the state must consult indigenous peoples whose collective rights may be directly impacted…before any natural resource exploration or exploitation activities in the

\textsuperscript{37} This is also the first indication in mining legislation with regard to informing community residents about granting sub-soil rights to private entities.

\textsuperscript{38} While in Peru, I was informed that this was a common practice in large-scale mining projects where a small firm, buys a mining concession, then it may engage in exploratory activities or may sell rights to another small or medium company for exploration activities. In the end, none of these have long-term plans for starting exploitation activities. Rather, they sell to a larger company that is able to make the necessary investment for exploitation operations.
geographic area where indigenous groups are located” (DS 001-2012-MC). At the time of my research, only the Land Use law (Land Use Law 26505, DS 028-2008-EM, and RS 304-2008-EM) and environmental impact assessment requirements for consultation were being implemented.

Once a mining company decides to engage in exploratory activities in anticipation of the start of mining operations, the negotiation process starts between the company in charge of the exploration phase and community members and other local residents (Land Use Law 26505, By-laws DS 017-96-A) to obtain their authorizations for surface level activities. By law, each community should be able to decide whether they want to pursue a majority vote on land use agreements with the company or want to pursue negotiations on an individual basis. One NGO developed guidelines that advise that a community seek a majority vote of 2/3 as a first step (Cooperación, 2013). The negotiations may involve rental or sale of their properties (compensation for the value of the housing and other non-moveable structures). The negotiation for land use begins prior to exploration activities but continues throughout post-exploration when it is necessary to negotiate either further land rental or purchases to begin exploitation activities. Such was the case in Apurimac when I conducted fieldwork. Southern Creek Mining was seeking an agreement to begin the EIA process in the town of Wayrani.

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39 NGOs have been claiming that the Prior Consultations should be conducted before granting of mining concessions, but there has been no discussion of changes to the current process of concession granting.

40 Community members are those legally registered as members of a community. Local residents are not legally registered and may be newcomers or returning former residents.

41 In the region of Apurimac, there are two main NGOs that work with communities on a range of development issues. When asked to do so, they provide advice on how to proceed with negotiations over mining projects.

42 Wayrani, Southern Creek Mining, Minera Salinas, and the mining project name Arana are all fictional names to protect actors’ identities.
There are two kinds of EIAs. One is the semi-detailed environmental impact study (EIAsd) required to obtain a national government permit for exploration activities and the other is a more detailed EIA which is the study that must be approved by the national government to start exploitation activities. Each of these may require modifications (MEIAsd, MEIA). Before the elaboration of the EIAsd, the legislation requires in its citizen participation component that there be at least one “participatory workshop” executed with community members from the areas directly impacted. Environmental studies also must be submitted to regional and provincial authorities as well as to communities located within the mining project’s areas of influence. Once the elaboration of the EIAsd is in process, it must include a “Protocolo de Relacionamiento” (Relations Protocol) which outlines “…principles and relations policies” to be adopted by a mining company throughout the exploration phase. The expectation is that “…mining companies will promote the elaboration of the document jointly with the involved community members” (Article 8, DS 028-2008-EM). Once the EIAsd is submitted to the national authorities (Ministry of Energy and Mines), a second participatory workshop must be conducted. The company also must publish the EIAsd in the official newspaper “El Peruano” (The Peruvian). By law, “civil society” (i.e., NGOs, community members, other local residents) has 25 days to submit any comments and observations. If at a later stage there are any modifications made to the EIAsd, a MEIAsd must be submitted following a new participatory workshop. The process often is repeated. If there are modifications that will impact new areas of influence, the process for the EIAsd must be followed again in those areas. If there are no modifications of impact needed in new areas, the MEIAsd will be published online and submitted to the corresponding local and regional authorities.
A similar process is applied for exploitation activities. Before the elaboration of the EIA begins, the company must coordinate one participatory workshop in addition to a second type of citizen participation from among the following: making executive summaries accessible; publications in media outlets about the environmental studies and the opportunities for civil society to review these; interviews, polls or focus groups to collect information on interests or perceptions about the mining project; distribution of informative materials in writing; guided visits to the project’s grounds; or the company community relations team could interact with community members from the areas of influence (Article 2, RM 304-2008-EM). These forms of participation are to be implemented for the purpose of informing the population about the activities that are to come, for the elaboration of the EIA, and also to “…register promptly and in a timely manner the population’s interests and collect comments, observations, and contributions” (Article 12, RM 304-2008-EM). The legislation also notes that a representative from the regional government office must be present to guarantee the right of peoples’ participation in each of the processes mentioned above. During the elaboration of the EIA, the same process pre-EIA must be duplicated with the objective of the company informing about the progress of the studies. Finally, as part of the final EIA, the company must include a Citizen Participation Plan which entails an outline of the participatory mechanisms that a company will implement during the MEM’s evaluation of the EIA, taking into consideration the principles used in the Relations Protocol. Once submitted, the Ministry of Energy and Mines has 45 days to review the EIA, otherwise the servidumbre (mining easement) applies, and the project is approved automatically. Following approval of an EIA, the company must organize at least one public hearing
and civil society groups have 30 days to submit comments to MEM about the approved EIA.43 Subsequently, if the company requests modification of the original EIA, it must put together an executive summary along with another Citizen Participation Plan for national government approval. If these changes involve people in new areas of influence, there has to be at least one participatory workshop and one public hearing conducted, otherwise the project moves to the next stage.

Supposedly, construction of a mining site’s infrastructure and initiation of operations get under way after the corresponding communities (registered members and local residents) already have been relocated and compensated as the law requires.44 Throughout this stage, a company’s community relations representative must still be available and approachable to other people living in the areas of influence. A company may choose to set up either a Permanent Information Office to “…provide information about the project and to attend to peoples’ concerns” or a company may set up a Participatory Environmental Surveillance and Monitoring Committee to “…promote participation to access and generate information about environmental aspects” (Articles 31, 32, 33, RM 304-2008-EM). Finally, as a mine enters the closing down phase, a company must again implement participatory mechanisms (See Closing Plan in Timeline in Figure 4).

Conclusions and Critiques

In reality, based on my analysis of legislation and my interviews, I was able to determine that each of the required “participatory” processes remain at “passive

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43 Nothing in the law says that the MEM must act on civil society groups’ comments or respond to them. 
44 Not always done in this order.
participation” and “consultative participation” levels. These processes represent a one-way direction of information from company to community. Even though Peru’s legislation adopted language from international agencies supporting social justice and democratic ideals, I have shown that the process suggested for implementation of these ideals do not meet the expectations for intended outcomes. For example, the Peruvian legislation requires a set of meetings and activities that place responsibility on the mining company but also require, at least, attendance of community members in the areas of influence. The intentions to shift from a top down approach to a bottom up participatory approach was to ensure that those excluded up until that point would now participate and have greater control over their lives. But, legally, attendance alone qualifies as the execution of a “participatory” workshop. This is a distortion of the intent of the law.

In one case, at a public hearing for the largest mining project in Apurimac in 2010, a member of an NGO was present to record the event. She told me that she found that she and some others in the room were being pushed to the back while community members showing “support” for the project were pushed to the front. Although this incident is not representative of all public hearings in the mining sector, it illustrates that the mechanisms put in place in legislation for citizen participation can be manipulated and there is no guarantee that community members from the areas of direct influence will be able to influence any administrative, political, environmental, or financial decisions. In fact, the laws do not provide for influence since that could delay the approval process and the end goal – a lucrative mining operation.

In my analysis of the evolution of the idea of citizen participation in mining, I highlighted specific moments when issues of balance of power were addressed. At one
point (circa 2002) it seemed that citizenship and democratic ideals were gaining ground. Yet, the current participatory legislation from 2008 does not suggest mechanisms to deal with social justice and empowerment issues. Based on Agarwal’s participation typology table, 2008 norms seem to implement all types of participation including “interactive (empowering) participation.” Furthermore, the Ministry of Energy and Mines claims that the legislation in place represents an attempt to create agreements and consensus between the mining companies and local communities from the areas of influence. I contest this position. If people are required to attend meetings and workshops in order to be consulted and if there is no response or follow-up on peoples’ inquiries, then real participation does not take place. Actors are simply going through the motions. This is a subversion of the concept of participation in order to guarantee the interests of the State and of the large scale mining industry. Furthermore, although MEM’s legislation represents an increase in the number and type of mechanisms for participation to be executed at the different stages of a mining project, nowhere could I find in laws, norms, or EIA documents any information on cumulative social and environmental impacts, long term development planning, or consideration of any existing intra-community issues, among other issues that could affect community members and the mining project. Additionally, I could not find any evidence in EIA documents and legislation that government agencies were providing any oversight to protect the rights of participants or advocating for citizen rights.

The attempts to develop a more holistic approach to address the growing natural resource extraction industry—such as the ratified Convention 169, the Bases of Decentralization Law, and the Environment Law—have not succeeded. These
norms/policies purported to tackle power imbalances and defend the rights of indigenous peoples. The most recent law and most resisted by companies and government agencies, the Law of the Right to Indigenous or Native Populations to Prior Consultation, clearly exemplifies the negligence and reluctance that the economic and political sectors in Peru continue to exercise. My document analysis leads me to conclude that there is one major force at play in determining the course of large-scale mining extraction in Peru: money. The dominance of the neoliberal economic model has been effective in Peru to attract foreign direct investment, expand its global markets, and increase its GDP. This model does not include attention to social development or to democratic, citizen based concepts of good governance (ironically, also part of the neoliberal model internationally).

There are certain opportunities such as meetings and assemblies, but only if and when local community leaders, members and other residents from the areas of influence develop the ability to take advantage of the invited spaces. An example would be during early prior agreement meetings where community members and a mining company is required by law to negotiate terms and conditions before the company can start exploration and/or exploitation activities on community lands. My fieldwork began precisely at one of these moments in the process. In the next chapter, I discuss and draw conclusions from ethnographic research that I conducted in Peru during summer 2014.
Figure 7: Participatory Requirements in the Life of a Mining Project

- **Mining concession obtained**
  - Granted by the State (Constitution, Art. 66)

- **Once in concession**
  - MEM and concession holders must promote activities to inform the residents from concession area about mining activity (Art. 12, 028-2008-EM)

- **Prior Agreement (land use authorization)**
  - First negotiations company-community (Ley de Tierras 265005 DS017-96-AG)
  - Important: Community profile and community membership must be updated and registered in Public Registry

- **Before developing EIAsd**
  - At least 1 participatory workshop
  - Company to send environment studies to Regional Mining Office, district, provincial municipalities, communities under area of influence

- **DIA or EIAsd**
  - At least 1 participatory workshop
  - Community Relations Protocol
  - Civil society has 25 days to submit comments/observations from the first day of ad published in "El Peruano"

- **MEIAsd**
  - At least 1 participatory workshop
  - If modifications do not impact new areas
  - Follow same process as EIAsd

- **Exploration Phase**
  - If modifications apply to new areas
  - Send copies
  - Publish online

*continued*
Figure 7: Continued

- At least 1 participatory workshop
- Added participatory mechanism
- Regional authority to be present to guarantee population’s right of participation
- Company to send copies to Regional Mining Office, local government offices and communities
- Company to publish executive summary online
- Have complete EIA available for the public
- Publish on newspaper the scope of CPP
- Make radio announcements
- Put up signs at government offices
- Make EIA observations made by MEM accessible to public
- At least 1 public hearing
- Civil society has 30 days to submit comments to MEM following public audience
- Company to elaborate EIA Executive Summary and CPP
- If changes involve new areas of influence, company to organize at least 1 workshop and at least one public hearing
- As required by the CPP, company to establish one of the following:
  - Permanent Information Office
  - Participatory Environmental Monitoring
- Company to establish the following participatory mechanisms at its discretion
- Publish ads
- Give open access to executive summaries and content of the Closing Plan
- Information distribution through community relations specialists
- Present comments, suggestions to authorities
- MEM may require additional methods

Note: Legislative steps are presented from left to right in order of approval

Chapter 4: The Wayrani Experience

Introduction

In the prior chapter, I emphasized two points: 1) the language of laws and norms may have seemed to reflect a genuine intent to promote real participatory processes to strengthen Peru’s democracy and right the wrongs of marginalized peoples, especially the indigenous. 2) My analysis of legislation on participation in mining development revealed that, in reality, much of the legislation is vague and actually includes ways to invalidate genuine participation and devolution of power. The procedures and requirements in the laws and norms for mining provide opportunities for evading and manipulating participatory and democratic processes.

In this chapter, I revisit ideas discussed in prior chapters but this time through the eyes of NGO actors and the local peoples with whom I came in contact and through my observation of meetings at key sites. My goal here is to shed more light on what I have questioned in prior chapters--whether or not genuine participation is practiced and if, within the invited spaces of “participatory meetings” to negotiate over mining activities, there are opportunities for empowerment of community members and other local residents.45 I show how the interviews I conducted and the meetings that I attended

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45 In public spaces, all Wayrani members and residents are referred as “comuneros” (community people) but legally each community in Peru has a formal registry with the names of families in each community. As
confirmed what I already suspected from my analysis of the content of legislation—that even though social policies were put in place to strengthen civil society and give a voice to disadvantaged cultural groups, neoliberal economic policies dominate the playing field by supporting large-scale mining projects in Andean Peru.

Why fieldwork? Who and where?

As part of my strategy to determine how power relationships and participation have an effect on decision-making during “participatory” negotiation meetings for large-scale mining projects, I engaged in ethnographic fieldwork during 9 weeks (mid-May through August) in 2014. My methods participant observation, face-to-face interviews, and field note taking in Lima, Cusco, and the Apurimac Region. (My approach was phenomenology focused on one site of “participatory” activity.)

There were two main reasons to engage in fieldwork. First, given my experience studying and working for anthropology/archaeology field schools (6 summers in the Ecuadorian highlands), I valued gaining understanding from the ground up – through testimonies and experiences of individuals and groups – and being able to observe the setting in which certain events were taking place. Secondly, I wanted to immerse myself in the culture through participant observation to get close to people and their physical surroundings so that I could generate a level of trust and confidence among the people with whom I interacted; this would increase the likelihood of obtaining reliable

of 1999, 50 families were registered in the Wayrani census. There may be residents living in Wayrani with familial ties but not currently registered. I refer to the latter as local or community “residents” and the former as community “members.”

46 In 2013, I conducted exploratory research in Lima, Cusco (southern Andes), and Huaraz (central Andes) to refine my research question.

47 “Unlike positivists, phenomenologists seek to sense reality and to describe it in words, rather than numbers – words that reflect consciousness and perception” (Bernard, 2011, p. 23).
information. I identified four key sets of actors that played an important role in influencing decision-making and participation at meetings: the “community” made up of registered community members, chosen representatives/leaders, and other local residents; mining company representatives; government institutions and representatives; and NGOs and their staff. I considered it crucial to meet with and analyze each of the actors’ expressed views and ideas.

I selected a mining case in Apurimac for fieldwork, also for two reasons. First, I planned to inquire about the practice of participatory meetings that had taken place in the past and record the experience of these meetings through the “lens” of each of the groups of actors (their experiences, vested interests, etc.). Second, it is in each community of direct influence/impact of a mining project that participatory meetings (as mandated in the mining legislation) are held and experienced. In particular, I wanted to engage with those I considered the most important group of actors, the indigenous Quechua speaking peoples. I also considered essential that I visit their community of place and observe interactions. The community that I selected for study I refer to as Wayrani.48

Mining company representatives are the second group of actors that played a crucial role in my research since they are the party responsible for approaching, engaging, and informing the community about any future natural resource extraction activities and should negotiate relocation and compensation. I included government representatives as the third group of key actors given that they are supposed to supervise and assure that legal requirements are being implemented as mandated in the legislation—i.e., either to

48 All identifiers linked to this community, its members, mining project names, and companies mentioned have been changed to protect their anonymity.
benefit marginalized people or to guarantee the continued success of the growing mining economy. Finally, I selected two NGOs that have been involved with communities in the Southern Andes that are experiencing social and environmental impacts from mining activities.\textsuperscript{49} (See Table 3 for a breakdown of the semi-structured interviews I conducted and Table 4 for meetings and workshops I attended or participated in)

Over the period of fieldwork (May-August 2014) I also had the opportunity to meet with numerous individuals (other NGO representatives, staff from the national Ombudsman’s office, recent migrants to the capital district where Wayrani is located, among others) with whom I discussed the legislation and the communities impacted by mining. I also engaged some individuals in informal conversations regarding problems with mining projects in other parts of Peru. Informal conversations helped to broaden my understanding of the complexities of mining related issues.\textsuperscript{50}

Of the four sets of actors, NGOs were the most easily approachable and staff members were keen to share their views with me. Much of my time in Peru was spent with NGO staff with whom I engaged in many informal conversations. In total, over nine weeks of fieldwork in 2014, I met with staff at six NGOs in Cusco (my base of operations), all of whom had open door policies and were willing to share information with me. One, Centro Bartolomé de las Casas, known as CBC, offered me a workspace

\textsuperscript{49} I found these two NGOs working in Apurímac. Known as CBC (Centro Bartolomé de las Casas) and Cooperación, both were involved in advising and capacity-building through workshops with community representatives and members. Some of their training workshops were held in Cusco and others in the community of place.

\textsuperscript{50} I want to point out that, although I was able to include insights from each group of key actors, there were some individuals with whom I was able to engage more than with others. This varying level of engagement influenced my interpretation and analysis of research findings. Additionally, my presence (and who I was—foreigner, researcher) may have had an impact on social interactions, informal conversations, interviews, and even how meetings were conducted when I was present.
and assistance in arranging details for fieldwork and introduced me to the community I studied. I also participated in a workshop lead by Red Muqui, a national network of NGOs, in 2014.\footnote{Red Muqui “...advocates for mining policies and institutional reform and influences public opinion, mining companies, and the State to respect human rights and to comply with social and environmental standards...it seeks to strengthen the capacities of actors and their organizations so that they can intervene strategically in actions and proposals in the defense and enforcement of their rights and can contribute to building a model of sustainable and comprehensive development” (Red Muqui, 2008). At the time of my research, CBC was part of this network, which is accused of being anti-mining.}

To my surprise, four government representatives also had an open door policy. They agreed to my requests for interviews and shared their experiences and viewpoints with me. The two former government officials I interviewed shared comments more critical than those of the two government representatives who were in office at the time. Due to time constraints and difficulties contacting company personnel, I was only able to meet with one company representative from Southern Creek Mining in 2014 and another company’s representative from a different project in the Central Andes in 2013.\footnote{There were many sites where people working for mining companies were located. Personnel travelled frequently. In order to accurately identify the specific community relations representatives from a company who could talk about the company’s negotiation processes with the community, the best strategy would be to identify them at a community meeting. I identified three who participated in one of the community meetings I attended. I introduced myself to all three to request meetings, but two of them referred me to the third person present. In fact, none of the representatives showed any interest in speaking with me. Fortunately, I was able to observe their behavior at meetings and to meet with the one who was told to speak with me by the other two representatives whom I met in Wayrani.}

The Wayrani community members and residents that I interviewed were present during the community meetings I attended. They ranged in age between 25 to 45. From among the community leaders, I was able to meet individually with the president. For this interview, I asked a CBC representative to help me as a translator since the president spoke Quechua as his first language and I considered that carrying on the interview in his native language was going to be more genuine, richer, and more comfortable than in
Spanish. In retrospect, I believe that the presence of the NGO representative /translator may have influenced what the president chose to share with me. In addition, he may have selected information that he thought I was looking for--for example, perhaps only negative information against the mining company. The rest of my interviews with local people also elicited expressions of frustration and lack of confidence towards the mining project and the company. (Six out of seven Wayrani community residents/members expressed negative opinions while one was neutral. The neutral person expressed appreciation for CBC’s assistance to help the leaders make the best decisions.)

53 The CBC in general holds a negative opinion of mining companies and projects. People knew I was traveling with them.
### Table 3 Interviews conducted in 2014

<table>
<thead>
<tr>
<th>Location</th>
<th>Key Actor Set</th>
<th>Interviews</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cusco</td>
<td>NGO</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Former Vice-Minister of Environment, current Director of Cooperación; May 2014</td>
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<tr>
<td></td>
<td></td>
<td>Lawyer, Centro Bartolomé de las Casas; August 2014</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Workshop leader, Centro Bartolomé de las Casas; August 2014</td>
</tr>
<tr>
<td>Capital of district where Wayrani located</td>
<td>Government</td>
<td>Ex-governor of the district; June 2014</td>
</tr>
<tr>
<td></td>
<td>Community</td>
<td>Former leader at district level; June 2014</td>
</tr>
<tr>
<td></td>
<td>Community</td>
<td>Former community leader; August 2014</td>
</tr>
<tr>
<td></td>
<td>Company</td>
<td>Representative of Community relations, Southern Creek Mining; August 2014</td>
</tr>
<tr>
<td>Wayrani</td>
<td>Community</td>
<td>Resident woman, a returnee. Parents have property in community but passed away. She moved back from Arequipa. Interview conducted in June 2014</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Resident woman, mother of 3. Recently moved to Wayrani with family. Her husband is originally from Wayrani but they lived in Lima for years. Her husband has family connections with Wayrani’s president. Interview conducted in June 2014.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 young men interviewed before the third community meeting I attended. They were not residing in Wayrani during mining exploratory activities. Recently moved back. Work outside Wayrani. Interview conducted in June 2014.</td>
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<tr>
<td></td>
<td></td>
<td>President of the community; August 2014</td>
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</tbody>
</table>

*continued*

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54 17 interviews involving 21 people in total.
55 Exact dates are not included to avoid revealing information that could facilitate identifying the community, the company, and community leaders and members.
56 The people of Wayrani share an ethnicity with the majority of the people who reside in the province.
<table>
<thead>
<tr>
<th>Location</th>
<th>Key Actor Set</th>
<th>Interviews$^{57}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lima</td>
<td>NGO</td>
<td>NGO environmental lawyer, expert in consultations and participatory process in forestry areas in the Amazon. Interview conducted in June 2014.</td>
</tr>
<tr>
<td>Government</td>
<td>SENACE$^{58}$ Director plus 2 of her team members, in their new offices; June 2014.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Former representative for Indigenous Affairs, at Ombudsman’s Office; June 2014.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Representative, Oficina de Diálogo y Sostenibilidad (Office of Dialogue and Sustainability)$^{59}$ of the Presidency of Council of Ministers (PCM), at PCM’s main office; August 2014.</td>
<td></td>
</tr>
</tbody>
</table>

$^{57}$ Exact dates are not included to avoid revealing information that could facilitate identifying the community, the company, and community leaders and members.

$^{58}$ SENACE is the newly created (late 2012) national environmental certification service, a branch of the Ministry of Environment. It is expected that as of June 2015, all of the newly incoming exploitation environmental impact assessments for large-scale projects will be reviewed and approved by this office.

$^{59}$ This office was created by President Humala with the main purpose to “…encourage within the scope of its power a process of dialogue among various social actors, representatives of private institutions, and public officials to prevent and contribute solutions to controversies, differences, and social conflicts” (DS-106-2012-PCM).
### Table 4 Meetings and workshops attended in 2013 and during 2014 fieldwork

<table>
<thead>
<tr>
<th>Location</th>
<th>Attendees</th>
<th>Topic of discussion/Purpose of meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Wayrani</strong></td>
<td>Community members and residents (40+) and CBC representatives (2)</td>
<td>Information session and workshop to discuss negotiation strategies, June 2014</td>
</tr>
<tr>
<td></td>
<td>Community members and residents (40+), CBC representatives (2), Company representatives (3)</td>
<td>Assembly to renew relations between community and (new) company on the Arana Project and agree on plans for “moving forward” (in reality, no plans were discussed)</td>
</tr>
<tr>
<td></td>
<td>Community members and residents (72, mostly men and Southern Creek Mining (3))</td>
<td>First meeting using strategy of dialogue tables, June 2014.</td>
</tr>
<tr>
<td><strong>Cusco</strong></td>
<td>Members of network of NGOs (Red Muqui) (8), communities of impact representatives from Cusco (5), Apurimac (3-5), and Puno (3)</td>
<td>Sharing experiences with mining activities, held in May 2014.</td>
</tr>
<tr>
<td></td>
<td>University researchers (3+), NGOs (15+), general public, and government rep (2)</td>
<td>Forum to discuss Law of the Right to Indigenous or Native Populations to Prior Consultation held in July 2013.</td>
</tr>
<tr>
<td><strong>Lima</strong></td>
<td>University researchers (5+), NGO representatives (20+), government representatives (5), mining company rep (1), general public (25+)</td>
<td>Forum to discuss Law of Prior Consultation, held in July 2013.</td>
</tr>
<tr>
<td></td>
<td>Ombudsman and staff (3), Bagua rural community leaders (3), NGO representative (1)</td>
<td>Discuss Bagua (Amazon) case ongoing conflict, held in July 2013.</td>
</tr>
<tr>
<td></td>
<td>Ombudsman staff (2), rural community leaders (6), mining company representatives (2)</td>
<td>Mediation disagreements over gold mining project (dialogue table), held in July 2013.</td>
</tr>
</tbody>
</table>
The fieldwork experience

At the start of my fieldwork, I experienced a series of challenges that influenced my fieldwork decisions. First, at the time of fieldwork, the Apurimac Region had recently been in the national media because of social conflicts and new mining projects. There had been very recent news accounts of protests in the region, making mining-community relations a highly sensitive matter. Secondly, it became evident following my first field visit to Apurimac with CBC staff that people in and from this region are not accustomed to foreigners, let alone a female student of Korean descent from Argentina and the United States speaking fluent Spanish and beginning level Quechua. Third, distance from Cusco, my home base, to Wayrani was substantial. Wayrani is geographically isolated from any major road and urban center in Apurimac. The research site is 7-8 hours by bus from Cusco to the capital plus 30 minutes more to reach Wayrani (during the dry season, longer in rainy season). So in order to resolve logistical and cultural issues, I requested and was granted affiliation with and assistance from CBC.

To engage with community members required a significant commitment. This was another challenge. Because I only had nine weeks to conduct research in 2014, I decided that the best method to “enter” the community was to introduce myself gradually and through contacts trusted by the community. The CBC, which also has a positive reputation for producing and publishing high quality research, maintains a strong and positive presence in the rural communities of Cusco and Apurimac. The CBC allowed me to accompany their field team when they visited communities in Apurimac and to observe meetings that they held with communities. It was on the second trip to Apurimac with CBC that I was introduced to the Wayrani community.
On this second trip to Apurimac, the CBC had been called in by Wayrani representatives. They were seeking professional advice about negotiation procedures and settlement strategies, information needed to prepare for meetings with the new mining company, Southern Creek Mining. Some Wayrani community members were familiar with CBC work in the region and had participated in previous workshops conducted in Cusco. For this reason, local people considered CBC trustworthy. This seemed to me to be a great opportunity to meet the Wayrani community. Three CBC members introduced me to the community. This also is how I chose the Southern Creek Mining project as my case study.

An important planned component of fieldwork was going to be inquiring about the past participatory meetings (through interviews) held between community members and residents and the mining company to evaluate whether the intended objectives of the legislation were met in practice. However, I encountered a series of events in the field that led me to modify my initial plan in fieldwork and changed my focus towards the participatory meetings during negotiation processes before starting the environmental impact assessments for the exploitation phase, which I could observe. First, as I was coming to a realization that time and “entry” to a community impacted by mining activity in Apurimac was going to be challenging, I did not want to lose the opportunity of CBC’s introduction to Wayrani representatives. Second, because I was aware that exploration activities had terminated on Wayrani community lands and that past participatory workshop had taken place (according to the By-laws of Citizen Participation in the Mining Sector 304-2008-MEM/DM), I first sought to inquire about how that meeting in the past had unfolded. It followed though, that every community member or resident
whom I encountered and asked about these meetings responded that they did not remember it or where not present (seven in total). Speaking to the former community president who participated in meetings during the exploration activity negotiations would have been useful and informative but I found out that he and the vice-president had a car accident and had passed away. And the third complication was that Minera Salinas company who was in charge of the exploration work had been bought by Southern Creek Mining in 2012. Along with the new mining company in charge, community relations staff and other mining company representatives had been replaced. I considered at the time that it would also prove difficult to identify Mineral Salinas representatives who led and participated in the participatory workshop at Wayrani.

Given this scenario and the realization that it would be highly challenging if not impossible to conduct in-depth interviews about past meetings, I had to limit my ethnographic research to the current phase of participatory meetings and negotiations. At the time of my research and during my first visit to Wayrani with CBC staff, the community had recently started to re-engage, now with international Southern Creek Mining, to discuss future exploitation activities of the planned Arana copper deposit Project. (See Timeline in Figure 4, column on “Before starting EIA” phase.)

My close interaction with certain interviewees and organizations influenced my ethnographic research because of the perspectives and opinions expressed by members of certain key actor groups. For example, before I visited Wayrani and the Apurimac Region for the first time, I had three different encounters with NGOs that influenced my own perceptions and potential biases. My first point of contact was with NGO representatives in Lima and Cusco, many of whom were suspicious of the mining industry and critical of
its social and environmental impacts. Next, I engaged with the Ombudsman’s office in Lima, which specializes in conflict resolution and monitoring of social and environmental conflicts. Both the NGOs and the contact person at the Ombudsman’s office were very clear about their views on handling mining-related social conflicts and about how the playing field for participatory negotiations was uneven, favoring companies. I also attended a workshop in Cusco that focused on resistance to injustices and lack of government protection experienced by communities in Southern Peruvian regions. The workshop was organized by Red Muqui, which specializes in mining-related issues. They invited a local activist speaker from Cajamarca who presented the arguments of civil society in the volatile Conga Project mining conflict. Those present at this workshop concluded that there are many injustices experienced by local communities in Southern Peru that result from mining development and that more should be done from a grassroots perspective. These types of discussions that I was involved in influenced my ideas regarding the situation I would find once I began fieldwork. Once in the field, my ideas were confirmed by the tense situation I encountered and the behavior of company representatives.

**In the field in Apurimac**

After these preparatory experiences, I began field visits to the mining area in Apurimac where the community of Wayrani is located. At the time of my research, there were a series of events taking place in the same district where Southern Creek Mining was located. These events were related to Tawa Project, a new, larger-scale copper mining project. Due to their close proximity to Tawa, Wayrani community residents (and CBC’s representatives) were aware--through word of mouth--of the issues that Project
Tawa was experiencing with its communities of direct influence. For example, at the time of my research, one of the local communities directly impacted by Project Tawa that was supposed to relocate was refusing to do so. There were rumors that families from that community were requesting one to two million dollars before they would relocate to their new settlement. (During several interviews, national government officials expressed the opinion that community members and residents were “taking advantage” of the mining project as an opportunity to get rich.)

At the same time that I was conducting research and the Wayrani community was beginning to meet with Southern Creek Mining, the capital of the district was going through dramatic physical and demographic changes related to Tawa Project that I was able to witness, giving me insight into the impacts associated with a project’s infrastructural construction phase to prepare for exploitation. There was a surge of employment in construction and other services such as lodging, restaurants, and laundry services needed for Tawa Project workers.

Two NGO representatives with whom I spoke expressed dismay at the dramatic infrastructural expansion and population growth. Before the new project came in, the capital had been a quiet and tranquil Andean town. I was told that the river used to be clean and was full of fish but that it changed once Tawa Project construction started. The river became polluted and the fish disappeared. Construction development took place in a very short period of time and without long term development plans to guide it. From a distance, when approaching the capital, I was able to see multi-story buildings that

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60 An NGO staff member told me that the company convinced resistant people to support them by offering them new SUVs and employment. The company also was trying to convince people to cut their ties with local organizations that opposed the mining project.
looked almost finished, were occupied already, and were crammed in a flat, narrow area by the river. The town was densely populated and filled with noise pollution. Prices for lodging, food and other goods were very high. This, was the unavoidable impact of a large mining project. In the midst of “economic development,” jobs were not lacking. Most of the service providers (food, dry goods, lodging, etc.) that I chatted with informally said they were migrants from the region of Cusco. They moved there to open restaurants or hotels or in search of employment. Additionally, I met one person from Wayrani who owned a hostel and was also running a public transportation business with a mini-bus between Wayrani and the capital. Other Wayrani members I encountered were working in construction activities related one way or another to the Tawa Project.

The geographical nearness and close relationships among nearby communities and the district capital meant that almost everyone in Wayrani was aware of mining-related activities. These included both opportunities for work and the negative impacts of rapid construction, traffic, cost of living. Not surprisingly, NGO members also were commenting on how mining companies were constantly watching what people were doing and listening to what they said. They said that companies tried to find out how NGOs might be influencing community decision making. I was very aware of a high level of distrust not only among NGOs but also among local people of mining company representatives in the area. For that matter, any foreigner (anyone without familial ties to Wayrani) also was suspect. Wayrani was not a politically and socially neutral place. This quickly became very clear to me.
Frustration builds in Wayrani

At the time of fieldwork, I found the Wayrani community members attempting to negotiate with Southern Creek about prior unmet agreements for the Arana Project that had not been kept. The information I was given during interviews with community leaders, members and other local residents was mainly regarding Southern Creek’s failure to meet already promised payments as well as job opportunities as a result of a cut of all communication between the Wayrani community and the company from 2012 up until the time of my research. During my observation of the first meeting\(^6\) between CBC staff and community members and leaders, I heard statements focused primarily on the community’s demands and high expectations for compensation and expressions of uncertainty about their future. At that meeting, Wayrani leaders used the example of the Tawa Project’s impacts and its relationship with other, nearby communities as examples not to be repeated. In turn, Wayrani community members and other residents expressed concerns about how they didn’t want to be taken advantage of like their *compañeros* (comrades) from directly impacted communities of influence of the Tawa Project.\(^2\)

During that same CBC-Wayrani community meeting, community members inquired about how they could negotiate terms to be compensated for unmet promises and prior commitments that Minera Salinas, the prior owner of the Arana Project, had

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\(^{6}\) I observed three meetings in total in Wayrani. The first one took place between three CBC representatives and Wayrani members and residents. The second one, the next day took place between the same Wayrani members and residents, two Southern Creek representatives, and the two CBC representatives as observers. The third one took place the following day only between two community representatives and Wayrani members and residents.

\(^{2}\) Members of the Wayrani community also knew that Southern Creek already was working with the other three communities in their area of influence to begin production of the required social and environmental impact assessments. From discussions that I observed, it was clear that some people were concerned that Wayrani would be left behind.
promised to the Wayrani community during their negotiations. The next day, three people from Southern Creek Mining met with Wayrani leaders and community members and two CBC staff members. (Approximately 45-50 persons from Wayrani were present forming an elongated circle with approximately up to 20 women sitting at one end on the floor or on rocks, while approximately 25-30 men were made up the rest of the circle whether on chairs or standing up) I observed this meeting. This was the first visit made by anyone from Southern Creek to begin their negotiations with the Wayrani community. This also was the first instance when I identified clear indications of manipulation and practices that showed the imbalance of power between the mining company and the community members and leaders - a clear breach of legal provisions for “participation” and “negotiation.”

One mining company representative in particular, addressed the Wayrani people commandingly. He told those present that some of them had greater claims than others. For example, that the “original,” Wayrani long-term community members have lived, suffered, and experienced Wayrani lands more than others. He then advised all present to be aware of outsiders’ interests and said to make sure that the “real” Wayrani community members make the right choices for themselves. After he spoke, another company representative spoke a few words, then all three left. It was clear to me during that meeting that the company representatives were trying to divide the people into competing groups, undercutting the traditional practice of solidarity. The reference to people needing to be aware of outsiders’ interests undoubtedly referred to the NGO staff present and possibly to my own presence in the meeting.
The subsequent community-company meeting that I attended the next day involved an attempt to settle on the disagreements. But they were not able to reach any agreement and planned to meet on a daily basis until a settlement was reached through “mesas de diálogo” (dialogue tables). In Peru, this is considered a good conflict resolution technique. I was present during the first mesa de diálogo meeting where two Southern Creek representatives and a group of Wayrani delegates sat at a table to discuss Wayrani demands item by item. Other community members and residents observed the discussion but some also shouted comments during the discussion.

What I observed at that meeting was that community demands were declared unfounded (3 out of 5 made that day) by company representatives who claimed to have evidence of this in written records (thick folders) that they brought and read throughout the meeting. The community members who were making the demands had no proof to back up their claims against the company’s written documentation. (During this first mesa de diálogo only three out of the six major points were discussed.)

Company representatives seemed to focus only on “negotiating with the community” in order to create a pro-project environment so that the mining project could start activities. As a result, engaging the community in this mesa increased frustration and dashed hopes that community demands would be taken seriously. Interestingly, the

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63 Also called “mesas de trabajo” (work meetings) where all interested groups agree to meet by either breaking in smaller groups or through representatives who discuss key issues and reach agreements. It may consist of one or more “dialogue meeting” days and usually continues until an agreement is reached. The idea of coming together seemed to give more hope to people that their voices would be heard and needs would be addressed.

64 Right before the meeting started, those present in the room selected nine Wayrani men delegates to sit at the table along with the two Southern Creek representatives.

65 It is possible that someone received a payment at some time in the past that the rest of the community was not aware of.
day before the Wayrani community assembly, the Wayrani president claimed that the company should respect all of community members, not mistreat them or residents rights, and that Wayrani community members and residents must be conscientious about their own future: “Como cuando un pescador juega con los peces en el río, que pesca a un pez y luego lo vuelve a soltar al río, y lo vuelve a sacar, porque eso es su juego.” (“Like when a fisherman plays with the fish in a river; when he catches a fish, he then throws it back in the river, and then he catches it again and pulls it out of the water...because that, that is their [the company] game.”)

The source of the Wayrani community’s frustration

As stated in the previous chapter, Peruvian legislation describes the “prior commitment/agreement” phase (DS 017-96-AG) as the period in which communities and a company must engage in negotiations because the company needs community approval to use community occupied lands by renting or buying the land. These negotiations must take place prior to any mining project activity. In the case of Wayrani, authorizations for land use would have been sought by the prior company, Minera Salinas. However, Minera Salinas, a Canadian junior exploratory company, was only involved in exploration activities and then Southern Creek Mining (also a Canadian company) acquired Minera Salinas in December 2012 with 100% of the assets of the Arana Project for the exploitation phase that was to follow. (This is a common arrangement between smaller, exploratory, companies and much larger companies.) Southern Creek took over the mining project and should pick up community relations with Wayrani where Minera Salinas left off. Two years earlier, however, the Wayrani community and Southern Creek
broke off their ties, halting all mining project related activities. Wayrani community members and residents claimed they should receive promised compensation and other commitments should be met. Southern Creek denied knowledge of and responsibility for any such commitments. This created tensions between Wayrani and Southern Creek, leading to frustration and the halt of activities in Wayrani. Social tensions escalated.

When there are disagreements like this between the two parties (community, company) that could delay important large-scale projects of national interest, such as the planned Arana Project, the government intervenes (as it did here) to assure that investments of “national interest” are not interrupted. The protocol is for the Oficina de Diálogo y Sostenibilidad (Office of Dialogue and Sustainability) of the Council of Ministers of the Presidency (the PCM) to get involved as a “mediator” to resolve disagreements. The message Wayrani representatives received during a meeting held at the PCM offices in Lima exemplified how intertwined the PCM is with the success of mining companies. The Wayrani president reported on this during the first meeting/workshop with CBC staff. The PCM’s message was loud and clear: “…primero han crecer a la empresa como a un árbol, para que tarde o temprano sean beneficiados. Si no van a dejar que crezca, no habrá nada.” In other words, the PCM told the Wayrani representatives that they had to collaborate with Southern Creek and “feed and care for

66 At the time of my research I was not able to confirm the exact explanation for ending communication and work between the Wayrani community and Southern Creek but at my interview with a Southern Creek representative, he made it very clear to me that his company was not willing to negotiate under the same terms as the previous company had been doing. He said that Southern Creek was planning to engage “fairly” and under “strict ethical business standards.”

67 This office was created by President Humala with its main purpose to “…address within the scope of its power a process of dialogue with various social actors, representatives of private institutions and public officials, to prevent and provide solutions to controversies, differences and social conflicts” (DS-106-2012-PCM).
the company like they would a tree” and that “sooner or later they would see themselves benefitting from the company.” During separate interviews, the three NGO representatives (not CBC staff) that I interviewed, including the former Vice-Minister of Environment, told me that the Peruvian State supports mining projects regardless of the social and environmental costs. The treatment of the Wayrani community appears to confirm this.

In the workshop with CBC staff, those present expressed high levels of resentment toward the government. For example, one Wayrani representative said he was aware that another nearby community was being threatened by 300 police officers to make sure that they vacate their community lands that supposedly they granted for the Tawa mining project. Additionally, all seven of the Wayrani community members that I interviewed said they were convinced that the State was siding with the mining company. They said it was up to them to make sure that they get all the benefits that they are entitled to. In separate interviews, one CBC lawyer and the former Vice-Minister of the Environment also made it very clear that the playing field was set up to benefit national coffers and the international mining sector:

“...el Estado Peruano entra en negociación previa con la empresa...o sea el Estado a priori otorgó las tierras a la empresa y la empresa lo único que tiene que hacer ahora es hablar con la comunidad...” (“...the Peruvian government negotiates in advance with the company...that is, the State has a priori granted the lands to the company and all the company has to do then is to go talk to the community.”)

68 This shows classic neoliberal thinking that it is better to wait for benefits to trickle down to the poor rather than negotiate legally-specified rights and compensations. This is another example of how the law defends companies and not the citizens whose rights they are supposed to defend.
Explaining the Wayrani experience

My analysis of events observed at my research site, Wayrani, and the interviews that I conducted have led me to the conclusion that social injustice is clearly present in the negotiation and agreement process and that the residents did not have guarantees to trust that the State was going to protect their rights and their well-being. The experience had been the complete opposite: the absence of provision of basic services in the region. This is in direct violation of legal stipulations for the participation of affected communities.

In sum, my ethnographic research leads me to conclude the following:

1) the Wayrani community lacked legal support and the skills and knowledge necessary to negotiate with Southern Creek Mining over the prior agreements with Minera Salinas, to settle the unresolved compensation issue, and to forge new agreements;

2) the participatory process of negotiations to settle prior agreements is a frustration and a burdensome process, particularly for community members and residents;

3) the government, represented by the PCM, expressed support for the Arana Project and disregarded power imbalances that exist between the social actors; and

4) even though the evolution of participation in mining development legislation seemed to approximate democratic ideals of good governance and citizen involvement in decision making with the creation of mechanisms to increase community participation and collaboration between communities and mining companies in areas of mining impact (DS 052-2010-MEM/DM) and the Basis of Decentralization Law 27783 was passed.
ostensibly to establish a “comprehensive, harmonious, sustainable development, and a balance of power for benefit of the population,” the experience in Wayrani showed that the opportunities for Wayrani members and residents to openly engage in long-term development planning for the benefit of their community were very limited.

In this case, the invited participatory spaces did not create effective opportunities for community members and residents to benefit in social, economic, or political terms. However, some questions remain unanswered: does the Wayrani experience represent those from neighboring communities at any stage during their negotiations? What may be the differences between Wayrani and the other communities of influence that led to different outcomes? At the time of my research, the Wayrani community was under pressure to re-establish relations with the company given that the other three communities of influence were already working with Southern Creek and agreed to move on to EIA studies in each of their communities.
Chapter 5: Conclusions

Introduction

In this thesis, I have examined the role that citizen participation is supposed to play by law, the role it actually plays in the mining industry, as well as its relationship to the economic, political, and social context in Peru. I particularly emphasized specific dimensions of the “development project” (i.e., economic growth, modernization), and its role in Peru’s policies; and I discussed how participation was conceptualized in development discourse and became a policy concept. I also discussed the concept of citizen participation as it relates to neoliberalism (i.e., integration into the world economy, debt repayment, good governance) and its use in the priority practices of neoliberal resource governance in Peru. Then, specifically, I addressed two main questions in my research: 1) Are Peruvian laws and norms creating spaces for certain actors, specifically indigenous groups whose livelihoods are directly impacted by mining activity, to experience new opportunities that allow them to benefit socially, politically, economically, and environmentally? 2) Do those “legal invited spaces,” where a heterogeneous sets of actors with significant status differences are brought together to negotiate details of a mining project constitute a transformative space to engage in a
mutual and respectful exchange and process as outlined by ideals of citizen participation and devolution of power as contemplated in legislation?

My research was based on two types of data: document analysis of selected legislation and guidelines for citizen participation in mining development; and ethnographic fieldwork that I conducted over two summers (2013 and 2014) in the region I have called “Apurimac” located in southern Peru. Ethnographic research included semi-structured interviews, participant observation, informal conversations, and field notes. Through a case study of a community (which I have called Wayrani) entering negotiations with a mining company, I examined how the different sets of actors (community leaders, members and residents, mining company staff, government representatives, and NGO staff) interacted and engaged with each other and the roles that each played in what, by law, are designated as “participatory” and “negotiation” meetings.

Next, I discuss my findings and their significance based on both my analysis of citizen participation in mining legislation and analysis and findings from my ethnographic research.

**Neoliberalism, power, the “tyranny of participation” and the ideal of “transformative spaces”**

As I discussed in Chapters 2 and 3, participatory approaches to development are found since the early 2000s in Peruvian legislation regarding mining development. They are supposed to have been implemented with a focus on citizen rights, social democracy, and social justice. Through my research, I found that, in fact, there were a series of impediments that undercut the peoples’ rights mentioned in legislation. Were these impediments deliberate efforts to evade implementation of rights?
In fact, an important finding from my analysis of legislation was that the contents of the law are so vague that, in practice, this allowed certain actors (company and government representatives) to influence and manipulate the decisions of other actors so the ability of community members and residents to have their voices heard and acted upon was limited.69 As a result, community-level actors could not take advantage of these invited spaces to influence decision-making about their own livelihoods and cultures. In other words, legally-mandated meetings have not provided a space for transformation of power relations among actors. One reason is that it was unclear in the mining legislation which actors the participatory mechanisms were meant to benefit and ultimately empower. This is a critical distinction that Cleaver (2001) also raised in his work: whom the process is supposed to empower. I also found that although the legislation on citizen participation in the mining sector refers to the “población” (the people), the law remains ambiguous on who “the people” are and leaves room for manipulation by the mining company and the state to decide who those people are.

If the legislation targets residents of a community as a collective, this should give peasant and indigenous communities more power in the negotiation process. In the case of Wayrani at the time of my research, community meetings and assemblies were held to reach a consensus among all community members and residents and to make decisions communally. An example of how powerful actors manipulate peasants and indigenous people was when, as mentioned in Chapter 4, a company representative emphasized a

69 In fact, my findings indicate the vagueness might have been deliberate as a mechanism to be sure that the country’s economic interests come first.
difference between those who “lived in and were the ‘originals’” of Wayrani versus newcomers and outsiders who he called the “others.” This clearly was an attempt to alienate some community members and residents from others as well as from the NGO staff who could provide advice. The company representative seemed to believe that this would increase support from certain community members and residents. But, in reality, it aggravated discontent as I learned from community interviews. NGO representatives (two lawyers) and the former Vice-Minister of Environment indicated during their interviews that this is a common strategy applied across other mining project cases—that is, companies attempt to divide communities by creating or highlighting differences among them. In fact, it may have contributed to the growing concern among community members and residents that Wayrani could be left behind since they were aware that three other communities were moving ahead with the company.

A second instance of obstacles to transformative opportunities was the role that the state played in the case of negotiations between the company and the Wayrani community. Stiefel and Wolfe (1994) pointed to the contradictions in and among legislation. That is, that even though some legislation is meant to support social justice, when put in place government agents may attempt to reinforce existing power relations rather than genuine participation. The authors argue that in such a case participation (that is supposed to lead to empowerment) becomes depoliticized and exists within an environment controlled by the more powerful. In the end, ideals of social justice become a technicality that exists only in theory. Although “institutional innovations” have been taking place in Peru, as Bebbington (2009) noted, they have not improved conditions of social justice. This seemed to be the case of participation by the Wayrani community.
during negotiations about prior agreements with the mining company that I observed and discussed in Chapter 4. For instance, the clear message issued by the State, represented in this case by the Ministry of Energy and Mines and the PCM, was not focused on meeting rural community demands. In particular, the PCM’s message was straightforward: no consent from the community to company activities, no money for the Wayrani community. The PCM ignored imbalances of power and legal stipulations regarding the rights of peasants and the indigenous during the meeting with Wayrani representatives at the PCM office in Lima. It argued that an assumed financial benefit to the community was what was important and this would come from successful negotiations to benefit the mining company.

Additionally, I observed a lack of State presence in Wayrani, including at meetings that State agents were supposed to monitor. All community interviewees, company representatives, and NGO representatives commented on this during their interviews. Comments in some interviews also led me to conclude that the Wayrani community’s experience is not an isolated case in Peru. For example, the former Vice-Minister of Environment extensively investigated other mining related cases throughout Peru (see also De Echave, Diez, Revesz, Ricard, & Tanaka, 2009). During our interview he shared with me his view regarding political interests as well as the threat that implementation of the laws pose for disrupting national economic growth: “No hay voluntad política para cambiar las cosas...aparte hay una campaña política muy fuerte en el país de gremios muy fuertes diciendo que los trámites son excesivos en el Perú...que la inversión se está yendo.” (“There is no political will to change things...besides, there is a very strong political campaign from strong interest groups, [i.e. labor unions, chambers of
commerce, mining associations, etc.] saying that the legal procedures are excessive in Peru and that investment is fleeing the country.

The findings from my evaluation of participatory approaches as represented by the Wayrani case was similar to what Gaventa (2004) predicted. Specifically, that by creating “institutional arrangements for participatory governance” alone (i.e., strengthening citizen participation legislation in the mining sector) is not effective if the state does not monitor and enforce (p.27). So, although the evolution of the legislation indicates an intent to recognize ideals of social justice, during my research I could find no evidence of enforcement or mechanisms in place as to make sure that the intentions on paper had a meaning in practice. The case that I studied, thus, is an excellent example of what Cooke and Kothari (2001) warned about as the “tyranny of participation.” Without consideration of distribution of power before, during, and after participatory and negotiation meetings, the processes of participation became, in the end, an instrumental and legal technicality, not genuine participation. If laws and policies in support of participation in development in Peru were meant to lead to a redistribution of power and decision-making, they fail to do so—at least in the mining sector. Instead, in the case of Wayrani and the Arana Project, the created spaces of participation facilitated the exercise of structural patterns of injustice and reinforced power imbalances that trumped the introduction of “democratic ideals and practices” in legislation.

As discussed in Chapter 2, “participation” has been highlighted in neoliberal conceptions of good governance as a mechanism to transform government institutions. The idea was that strengthening government and increasing social capital, especially of traditionally marginalized groups, would help to maintain the market system. Good
governance translated into the implementation of decentralization processes that aligned with social democracy and devolution of power to citizens with one of the practices of devolution to be increasing citizen participation. Arnstein (1969) defined citizen participation as “…a categorical term for citizen power. It is the redistribution of power that enables the have-not citizens, presently excluded from the political and economic processes, to be deliberately included in the future” (p. 216). But most importantly is “…that participation without redistribution of power is an empty and frustrating process for the powerless. It allows the power holders to claim that all sides were considered, but makes it possible for only some of those sides to benefit. It maintains the status quo” (Ibid.). Although during the decentralization process there were intentions to improve equity, balancing of power and giving the people opportunities to have a voice, in the mining specific legislation that I analyzed and my case study analysis I could not identify genuine intentions to apply participation in the ways defined by Arnstein. Rather, as she predicted, the “participatory process,” became a frustration and a burden for community members and residents. The result has been continual meetings that slowly drain community members’ time and energy and which potentially could lead to violent social uprisings (as is the case in other regions) followed by state repression.

As discussed in Chapter 2, socio-political discourse in Peru (and throughout Latin America) has emphasized social equity since the 2000s with a focus on sustainable development, empowerment, and inclusion. As could be expected, these development buzzwords also appeared in the Peruvian legislation that I analyzed. I posed the question in Chapter 2 of whether under neoliberal governance it would be possible to broaden democratic opportunities and recognize rights to those traditionally marginalized (for
example, the poor and the indigenous). On the one hand, we have the discourse of peoples’ participation and empowerment and, on the other, the weight of the neoliberal economic project aimed at growing the Peruvian economy and making the country more competitive in the global market (the neoliberal version of the “development project”). In my case study of Wayrani, I concluded that the future large scale mining project was as much of a priority for the State as it was for the company; this served to effectively undermine other considerations related to the discourse on participation. My observations and interviews illustrated how, through the allocation of participatory rights, the Peruvian government simultaneously was able to integrate those rural territories and communities into the free market economy, leaving the playing field completely open for mining companies to directly negotiate to achieve their goals. Meanwhile, the social, economic, and political rights of the communities impacted by mining are weakened.

Is this inevitable? There are three nearby communities whose situation differed from that of Wayrani. They were working and cooperating with Southern Creek. I was not able to determine how Southern Creek engaged with those community members and residents or how the participatory and negotiation meetings were conducted. But based on conversations I had with NGO staff, former government officials, and the Southern Creek’s representative, some of Wayrani members may have been “bought off” with jobs and cash payments by Minera Salinas. Because my observations were based on one community at one stage in a mining project’s lifespan, I cannot draw definitive conclusions or generalize to other cases. Further research is required in order to verify whether the other three communities of impact experienced anything similar to Wayrani’s experience.
Through my observations on the Wayrani case, I also do not rule out the possibility that community leaders, members, and residents may be able to take advantage of future invited spaces or even create their own spaces in which to demand their rights. Again, follow-up research would be needed to determine whether the community is able to create and participate in a genuinely “transformative space” in order to have a significant and genuine impact on decisions that affect social, political, economic, and environmental features of their livelihoods and culture. Bebbington et al. (2008) labeled the relationships between extractive industries and development as contentious and ambiguous. I observed this among Wayrani members and residents in the case of the Arana mining project. During the CBC-community workshop, a few questions were raised with regard to whether the project could continue and mining could begin without the support of the Wayrani community. Of major concern for Wayrani members and residents were the lost job opportunities from project-related activities during the two years that Southern Creek Mining had not been working in the community of Wayrani. The prospect of jobs seems to be an important reason for the Wayrani community to re-engage with Southern Creek, especially as the other three communities of impact are already engaged in the project. Additionally, I observed, as discussed in Chapter 4, that there has been a surge of employment in the district that is related to the development of a new mining projects. Based on my observations of community meetings and conversations with community members and residents, Wayrani representatives, while wary of possibly not making progress on their demands, also recognized a need to
maintain negotiate with the mining company so that they will not be left out of the economic benefits of mining.\(^7^0\)

**Contribution to knowledge and significance**

By studying issues of social justice and power imbalances in mining legislation and the experience of social actors in the case of Wayrani, I sought to demonstrate the implications of different ways in which the concept of participation is and can be implemented in mining development in Peru. I applied conceptual tools from the participation in development literature to analyze certain aspects of the legislation as well as the actual experiences of participatory and negotiation meetings. The concept of the tyranny of participation was useful in framing my research approach and in documenting shortcomings and obstacles to genuine participation that I identified in both the norms and laws and in practice. Although my ethnographic research was based on a single case study, my results shed light on the risks and limitations involved with claiming participation as a realistic mechanism to support the democratic process and promote social justice through legally-mandated forms of participation. I found that the idea of extending and opening participatory spaces does not necessarily lead to a balance of power among participants or to sustainable democratic practices. In fact, spaces for participation can create further opportunities to manipulate certain social groups if the necessary conditions (e.g. training for participants, observers to monitor and assure all voices are heard and responded to, discussing both short and long term impacts) for

\(^7^0\) There are other questions that remain to be seen that can affect community power in negotiations: Do some individuals end up with more financial gains than others, do some secure jobs and others do not, and is the community going to continue negotiating collectively with the company or will the community divide up so members can seek individual agreements?
genuine participation are not put in place. Even though in my literature review, I emphasized that participation may be harnessed as a tool for empowerment, this can only be achieved when genuine participation is practiced. In my research, I searched for instances in which Wayrani community members and residents attempted and/or succeeded in making their voices heard and were able to defend their interests. My research contributes useful information on when and under what conditions participatory opportunities arose and when they were thwarted by certain actors.

My findings point to the need for governments to pay attention to constructing the process of participation at the level of company-community-government relations before a mining project develops. Furthermore, one of the problems that I detected was the absence of oversight and documentation of what takes place during meetings and whether or not they were truly participatory spaces and not spaces to manipulate or dominate community-level actors. Mine is one of a very few studies into legislation and how it plays out in practice.

My research has significant implications for the future implementation of the new Law of the Right to Indigenous or Native Populations to Prior Consultation. Since it was passed in Peru as another instance of a good government practice through the extension of rights to indigenous and native populations, it is crucial to make sure that obstacles similar to those I uncovered are not replicated during implementation of the participatory mechanisms stipulated in the new Law. On the one hand, if indigenous rights are not respected as mandated in the Law, the risk of frustration and resentment will grow and may lead to bigger social conflicts than present ones. On the other hand, persistent failure
to monitor and assure that legislation is properly implemented can weaken the democratic system and, in particular, the credibility of the elected leaders who implement the law. And last, this study demonstrated that the concept of tyranny of participation is still prevalent in participatory practices within the context of economic development sectors, in the Peruvian case, in the large scale mining industry. The literature on participation in development does not address mining development specifically but it was instrumental to apply the concepts of social inclusion, voice, and power given that mining development is an important activity that impacts sectors of the population traditionally marginalized. My findings show that it is necessary to place participatory approaches in the mining sector within the larger picture of social, political, and economic development. Thus, the concepts of opportunities within the invited spaces for transformation can be extended to include not only public initiatives but also to critically engage the private industry to collaborate and coordinate with public institutions to respond to democratic ideals and social justice.

Limitations

During preparation for research, I underestimated the challenges associated with doing ethnographic fieldwork in rural communities in Peru. One of these challenges was approaching community members and residents to discuss a mining project. In order to “enter” Wayrani, I needed help from others. This required more time investment than anticipated and I had a limited time frame to engage in fieldwork. My funding was also limited. Additionally, many of my interviewees, particularly from Apurimac, already were experiencing social and political tensions as a result of uncertainties about the future
and a lack of trust in outsiders; these were related to the two large-scale mining projects underway in the district at the time of my research.

Another important limitation was that I was not present during the previous meetings on prior agreements (with Minera Salinas) and I was told everywhere that I searched that there was no documentation (media or written) available about these meetings for me to access and analyze. Due to time limitations, I was unable to continue observing the subsequent *mesas de diálogo* (dialogue tables) that were held between the community of Wayrani and Southern Creek. Some people’s memories of the events clashed and I was unable to determine what really happened. The study would benefit if I were able to document future stages in the process of participation, including the process of relocation and post-relocation of Wayrani members and residents.

Finally, some of my findings are tentative in that I am not able to generalize them to other cases in Peru even when NGO representatives shared with me experiences that they observed in Apurimac or other places in Peru. Even though I was told that the practice of mining companies dividing communities through bribes and holding private meetings is a practice commonly known, I did not have time to verify their statements.

**Recommendations for future research**

This thesis created many opportunities for future research. Here, I explore a few of these options. One future research project would be to study the Arana Project for a longer period of time, for example potentially leading to a PhD project. A longer-term project would entail the opportunity to evaluate changes, other types of meetings corresponding to future phases in the mining project, as well as looking at the longer term impact of the early meetings and negotiations and whether these have an impact on social
conflict or not. The opportunity to build on current empirical knowledge and produce additional knowledge would be important to advancing and refining the concepts and theories that contributed to my research. This type of research also would be valuable for government agencies as well as for mining companies genuinely interested in engaging in democratic and sustainable development practices.

If I have a chance to return and continue my research on consultation or participatory meetings for mining projects, I would visit the other three communities near Wayrani, interview their representatives, and, if possible, attend community-company meetings. With additional information, I would be able to compare and contrast between communities and then determine whether the case of the Wayrani community is an isolated one or if other communities also experience similar instances of social injustice.

A second future research topic could involve a comparative study between the Arana Project and another large-scale mining project in Peru. Such a study could shed more light on factors that contribute to participation and negotiation practices of different mining companies and allow documentation of similarities and differences to confirm generalizations across the country. Finding existing patterns of injustice will also contribute to demanding better practices and controls to make sure that the state responds to community and citizens demands.

A third opportunity for future research is related to the implementation of the Law of the Right to Indigenous or Native Populations to Prior Consultation. Last year, the Minister of Culture announced in a major national newspaper that the Arana Project was on a list of sites being considered for implementation of the Law of Prior Consultation later this year. However, to date I have found nothing planned for the region. If the Law
of Prior Consultation is implemented, it would be a great opportunity to evaluate the implementation process with a possible comparison of implementation in Wayrani and in the Amazon (where it has been implemented). This type of research can illustrate how the granting and identification of collective rights of peasants and indigenous people become part of neoliberal ideology (Hale, 2005).

**Recommendations for policy makers**

As a result of this research, I identified aspects in the legislation and in actual practices in the field where there is a need for improvement and major changes to take place based on accepted concepts of social justice and genuine sustainable development. First, the by-laws of existing legislation need to be more explicit. They need to provide definitions that don’t provide loop holes to minimize requirements and they need to establish a set of criteria to be met that address issues of unequal power and social inequality. Second, the company, the community of influence, and a government agency (the Ministry of Environment or the Ombudsman’s office but not the Ministry of Energy and Mines) must document both the process leading up to and all formal and informal agreements made regarding any aspect of the mining project. Legal documentation (written transcripts, videos) will help to make sure that mining companies later comply with agreements and also that community members and residents can access these documents at any time. Documentation also will provide evidence of whether or not legal guarantees were followed. This type of transparency should help in the long term to rule out suspicions and examples of illegal behavior. By engaging a government agency that is not the MEM will also help avoid a conflict of interests given its mandate to promote mining as an economic/financial strategy for the country. Third, the current participatory
legislation for mining development lacks oversight\textsuperscript{71} leaving much of the responsibility for how meetings with communities take place up to the discretion of the mining company. It is only at the moment of major disagreements or a halt in mining activities that the government enters the scene. These practices are clearly unsustainable as evidenced through the high number of social and environmental conflicts in Peru related to mining development.

Change may already be underway. The latest “institutional innovation” in Peru was the creation of SENACE, the national environmental certification service, to evaluate environmental impact assessments of large-scale projects (but only for the exploitation phase, that is, after operations have begun). This new institution was created following the conflictive events of the Conga project and is a result of a highly criticized process of evaluation of EIAs by the same institution that was itself promoting the activity. We will learn in the future if this change of hands represents a significant effort for more just and democratic practices or not. However, the issue of oversight and practices has not been addressed with the creation of SENACE and this still needs to be addressed.

Fourth, the findings from my research revealed multiple insights to consider if the Law of Prior Consultation is to be implemented successfully in mining. If the Peruvian government’s intentions are to respect the rights of the indigenous and include the social, political, economic, and environmental rights of all traditionally marginalized groups, then it is the responsibility of all the parties involved (government, community, civil society, and mining company) to address, acknowledge, and act upon the fundamental

\textsuperscript{71} An environmental lawyer told me that the current participatory legislation in the mining sector requires specific criteria for evaluation and follow-up of the participatory processes implemented. But these are not being implemented.
rights of the indigenous as passed by UN’s 1997 Declaration on the Rights of Indigenous Peoples.\(^\text{72}\)

Given the track record of large-scale mining development in Peru, it is evident that mining will continue to have an important role in the national economy. In fact, I did not find that Wayrani residents were either for or against support for the mining project but the practices that I observed were not sustainable, especially at the earliest stage of the project (the exploration phase). An important underlying condition is that the district where Wayrani is located lacks basic services (education, health and jobs, etc.). It also lacked a long-term sustainable local and/or regional development plan. As a result, the region of Apurimac must provide basic services and engage in long-term sustainable development plans before a mining project settles in the area. Alternatively, work together with the company to negotiate required services and infrastructure prior to the beginning of any mining project. By addressing these issues locally and regionally, we may begin to see greater local benefits from mining development and less conflict over mining projects.

\(^{72}\) Peru joined the General Assembly and adopted the Declaration in 1997. See [http://undesadspd.org/IndigenousPeoples/DeclarationontheRightsofIndigenousPeoples.aspx](http://undesadspd.org/IndigenousPeoples/DeclarationontheRightsofIndigenousPeoples.aspx) to access the resolution. For example, the Resolution adopted says that the General Assembly is “[c]onvinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,” and also acknowledges past injustices: “…that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests” (General Assembly, 2007). In 2011 Peru passed the Law of Prior Consultation based on ILO’s Convention 169. It became the first country to pass the law at the national level.
Bibliography


Appendix A: Semi-structured interview questions

Questions asked of government officials, mining representatives, and NGO staff:
1. ¿Tiene algún tema que le preocupa o le interesa sobre el proyecto minero? ¿Me puede dar una lista de los principales intereses?
2. ¿Qué significa participación para Ud.?
3. ¿Qué tipo de información se comparte o se supone que tendría que brindar a la población?
4. ¿Cuánta información tendría que ser compartida? ¿Y de qué manera?
5. ¿Quién tendría que difundir esta información?
6. ¿Cuáles son los objetivos de corto y largo plazo de los talleres de EIA?
7. ¿Qué tipo de comunicación es o sería la más eficiente para las comunidades campesinas? Y que no funcionaría?

Para el SENACE:

a. ¿Cuál es la posición del SENACE ante los procesos de participación ciudadana de los EIA? O sea,
Appendix B: IRB Approval

The Behavioral and Social Sciences IRB APPROVED BY EXPEDITED REVIEW the above referenced research. The Board was able to provide expedited approval under 45 CFR 46.110(b)(1) because the research meets the applicability criteria and one or more categories of research eligible for expedited review, as indicated below.

- **Date of IRB Approval:** April 28, 2014
- **Date of IRB Approval Expiration:** April 28, 2015
- **Expedited Review Category:** 6, 7

In addition, the research was approved for the inclusion of Non-English speaking subjects and is granted a waiver of documentation of the consent process.

If applicable, informed consent (and HIPAA research authorization) must be obtained from subjects or their legally authorized representatives and documented prior to research involvement. The IRB-approved consent form and process must be used. Changes in the research (e.g., recruitment procedures, advertisements, enrollment numbers, etc.) or informed consent process must be approved by the IRB before they are implemented (except where necessary to eliminate apparent immediate hazards to subjects).

This approval is valid for one year from the date of IRB review when approval is granted or modifications are required. The approval will no longer be in effect on the date listed above as the IRB expiration date. A Continuing Review application must be approved within this interval to avoid expiration of IRB approval and cessation of all research activities. A final report must be provided to the IRB and all records relating to the research (including signed consent forms) must be retained and available for audit at least 3 years after the research has ended.

It is the responsibility of all investigators and research staff to promptly report to the IRB any serious, unexpected and related adverse events and potential unanticipated problems involving risks to subjects or others.

This approval is issued under The Ohio State University’s OHRP Federally Assured #00000378. All forms and procedures can be found on the ORRP website – [www.orrp.osu.edu](http://www.orrp.osu.edu). Please feel free to contact the IRB staff contact listed above with any questions or concerns.

Michael Edwards, PhD, Chair
Behavioral and Social Sciences Institutional Review Board
### Appendix C: List of Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>DS</td>
<td><em>Decreto Supremo</em> (Supreme Decree)</td>
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<tr>
<td>DIA</td>
<td><em>Declaración de Impacto Ambiental</em> (Environmental Impact Declaration)</td>
</tr>
<tr>
<td>EIA</td>
<td><em>Estudio de Impacto Ambiental</em> (Environmental Impact Assessment)</td>
</tr>
<tr>
<td>EIAsd</td>
<td><em>Estudio de Impacto Ambiental Semi-Detallado</em> (Environmental Impact Assessment Semi-Detailed)</td>
</tr>
<tr>
<td>MEIA</td>
<td><em>Modificación de Estudio de Impacto Ambiental</em> (Modification of Environmental Impact Assessment)</td>
</tr>
<tr>
<td>MEIAsd</td>
<td><em>Modificación de Estudio de Impacto Ambiental Semi-detallado</em> (Modification of Environmental Impact Assessment Semi-Detailed)</td>
</tr>
<tr>
<td>MEM</td>
<td><em>Ministerio de Energía y Minas</em> (Ministry of Energy and Mines)</td>
</tr>
<tr>
<td>MEM DGAA</td>
<td><em>Ministerio de Energía y Minas, Dirección General de Asuntos Ambientales</em> (Ministry of Energy and Mines, Environment Office)</td>
</tr>
<tr>
<td>MEM OGGS</td>
<td><em>Ministerio de Energía y Minas, Oficina de Gestión Social</em> (Ministry of Energy and Mines, Social Affairs Office)</td>
</tr>
<tr>
<td>MINAM</td>
<td><em>Ministerio del Medio Ambiente</em> (Ministry of Environment)</td>
</tr>
<tr>
<td>RM</td>
<td><em>Resolución Ministerial</em> (Ministerial Resolution)</td>
</tr>
<tr>
<td>SENACE</td>
<td><em>Servicio Nacional de Certificación Ambiental para las Inversiones Sostenibles</em> (National Service for Environmental Certification for Sustainable Investments)</td>
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</table>