Performing Participation: Mining, Power, and the Limits of Public Consultation in Bolivia

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Resumen
Los mecanismos de consulta, particularmente aquellos dirigidos a los pueblos indígenas y campesinos, han sido promovidos por instituciones internacionales e incorporados a la normativa legal a lo largo de América Latina. En Bolivia, la consulta ha sido codificada legalmente desde 1991 y ha sido integrada a la normativa que gobierna la extracción minera y de hidrocarburos, así como a la Constitución Nacional de 2009 sólo recientemente. A pesar de ser un requisito legal, la consulta no se implementa con regularidad y tampoco es vinculante en términos jurídicos. Como resultado, ni las empresas privadas ni el estado están obligadas a cumplir las recomendaciones comunitarias. Asimismo, las comunidades no tienen derecho a frenar los proyectos a los que se oponen. Este artículo examina la consulta pública comunitaria en el sector minero de Bolivia. Basado en investigación etnográfica en el departamento boliviano de Oruro, propongo que los procesos de consulta pública son gestionados con fruición y circunscribiendo las opiniones emitidas a nivel local. En vez de fomentar la participación en la gobernanza de recursos naturales por parte de las poblaciones afectadas por la minería, la consulta pública circumscribe y despolitiza las relaciones sociales desiguales e injustas, con el fin de legitimar actividades extractivas. [Bolivia, minería, consulta pública, consulta previa, desarrollo participativo]

Abstract
Consultation mechanisms, particularly for Indigenous and campesino populations, have been promoted by international forums and incorporated into law throughout Latin America. In Bolivia, consultation has been codified in law since 1991, and has recently been fully integrated into the legal codes governing mining and hydrocarbons,
as well as the 2009 Constitution. Though required by law, consultation is practiced irregularly and is not legally binding. As a result, neither private companies nor the state are obligated to follow community recommendations, and communities have no right to halt projects to which they object. This article examines processes of public consultation in Bolivia’s mining sector. Drawing on ethnographic research conducted in Oruro department, I argue that public consultation processes are tightly managed and circumscribe local input. Rather than fostering the participation of affected populations in resource governance, public consultation circumscribes and depoliticizes unequal and unjust social relations, in an attempt to legitimize extractive activities. [Bolivia, mining, consultation, participatory development, FPIC]

Latin America is in the midst of a resource boom. As mining, oil, and gas extraction have intensified throughout much of the region over the past two decades, so too have associated social and environmental impacts. Latin American states vary in their response to these impacts, but nearly all have implemented public and community consultation mechanisms for populations negatively affected by extractive activities. Responding to international norms established through the International Labor Organization and the United Nations, such measures are putatively intended to establish an informed, respectful dialogue between the state, extractive firms, and residents of affected communities. As this article explains, consultation is incorporated into Bolivian statutory law, legal codes governing natural resource sectors, the 2009 Constitution, and the recently proposed Law of Free, Prior and Informed Consultation. Indeed, the legal right of Bolivia’s indigenous, originario, and campesino peoples to consultation is well established. However, consultation in practice—in terms of the way in which such rights are enacted—tells a different story.

Although written into law and policy, consultation frequently involves only pro forma participation of affected community residents. The topics of discussion and rules for participation at such forums are often narrowly defined and highly circumscribed by the state and industry officials charged with running the meetings. In what follows, I draw on ethnographic research conducted in the Bolivian department of Oruro to examine the practices and social relations fostered through public consultation. In Bolivia, the results of consultation are nonbinding, thus, its primary purpose is to mollify local grievances while permitting extraction to continue. Moreover, as implemented in Bolivia’s mining sector, consultation is a regimented, choreographed, and formalized practice, which can be considered a kind of political performance. As such, it is intended not to foster meaningful participation but rather to depoliticize extractive activities, defuse
tensions, and enroll community members in state projects of resource extraction (McNeish 2013). In this sense, consultation functions as a form of mundane, everyday statecraft, which is intended to draw boundaries between acceptable and unacceptable forms of social mobilization, and to define the role of citizens in relation to mining and the state (Hale 2004, 2005). The article begins with an examination of consultation processes and their incorporation into Bolivian law since the early 1990s. This is followed by two ethnographic vignettes, which demonstrate the ways that consultation forums serve to dampen, rather than encourage, meaningful public participation. The article ends with a discussion of the limits of consultation in contemporary Bolivia.

Governing Environments, Governing Relations

There is a variety of participatory and consultative mechanisms relating to resource extraction and development practices in Latin America (Jahncke Benavente and Meza 2010), resulting in some slippage among the terms employed. As Jiménez (2012:20, my translation) dryly notes, this is particularly the case in Bolivia, where the term “consulta” is applied to any “short, moderately informational meeting in which companies or the state propagandize for the [extractive] project, resulting in negotiations over the conditions (normally economic compensation) in which the communities agree . . . to the undertaking in question.” Perhaps the best known type of consultation is Free, Prior and Informed Consent (FPIC), sanctioned by the International Labor Organization’s convention 169 concerning indigenous and tribal peoples (hereafter ILO 169) and the United Nation’s Declaration on the Rights of Indigenous Peoples (UNDRIP; see, e.g., Cariño and Cochester 2010; MacKay 2004; McGee 2009). While consulta previa, as currently practiced and as codified in the proposed FPIC law, approximates the ideal of FPIC, and has been promoted by Bolivia’s Movement to Socialism (MAS) government as conforming to international standards established under ILO 169 and UNDRIP, it is expressly nonbinding (Bascopé 2010; Jiménez 2012; Schilling-Vacaflor 2013; Villegas 2010). Thus, while we may speak of prior consultation (consulta previa) in Bolivia, this should not be confused with consent, which is not required for extraction to proceed.

A second use of the term “consulta” in Latin America refers to nonbinding public referenda, held with or without state cooperation, and designed to gauge public opinion regarding extractive activities. Well-publicized examples of such consultations have been held in relation to mining projects in Peru, Guatemala, Argentina, and elsewhere (e.g., Fulmer 2011; Haarstad and Fløysand 2007). To date, no public consultations of this sort have occurred in Bolivia. A third use of the term “consulta” refers to informational meetings held for the general public.
(but intended primarily for populations affected by extractive activities). In contrast to FPIC and public referenda, public consultations of this sort have received far less attention in the academic literature. As practiced in Bolivia’s mining sector, this type of consultation takes two forms: consulta pública and audiencia pública. Consultas públicas were legally established by the 1992 Environmental Law (Law number 1333) as part of the Environmental Impact Assessment (EIA), and are initiated and administered by the mining firm. Audiencias públicas, also established by the 1992 Environmental Law, are initiated at the request of communities, and are administered by the state (via the Ministry of Environment). These forms of consultation have become integral to the governance of mining in Bolivia.

Since ascending to the presidency in 2006, Evo Morales and his MAS party have enacted a series of policy reforms that have reconfigured the institutional arrangements through which Bolivia’s natural resources are governed. Perhaps most famously, Morales “nationalized” hydrocarbons in 2006, shortly after taking office. Other examples include Morales’ renewed agrarian reform (Valdivia 2010), and the partial re-activation of the national mining corporation, COMIBOL, which had been largely dismantled during the neoliberal period of the 1980s and 1990s (Perreault 2013). As I will argue below, the institutional arrangements through which environments and natural resources are governed represent a form of state power that is less concerned with governing nature per se, than with governing social relations through nature.

Consultation mechanisms in relation to extractive activities may be seen as one such form of governance. However, such approaches have a longer history than suggested by recent emphasis on public referenda and free, prior, and informed consent. “Participatory” development emerged in the 1980s and 1990s, as part of a move toward grassroots, actor-oriented forms of development, and as part of a broader rejection of prevailing top-down, exclusionary development models. As with concepts such as “social capital” and “sustainability,” “participation” quickly established itself as a keyword in the development lexicon, and was incorporated into the discourses and practices of organizations from local NGOs to the World Bank (Cleaver 1999; Williams 2004). It is a thin line that separates incorporation from cooptation, however, and by the late 1990s “participatory development”—once heralded for its democratizing and liberatory potential—was itself critiqued as tyrannical, coercive, and exclusionary. Irrespective of the democratizing potential of participation in theory (Williams 2004), the actual practice of participatory development, particularly in the programs of large transnational aid agencies, has been criticized as managed and selective in terms of who does and who does not have a right to participate, as well as the forms participation takes (Agrawal 2001; Cooke and Kothari 2001). Moreover, in practice, “participation” is nearly always limited to involvement in project implementation, but not project design, let alone decisions regarding whether a project is even desirable (Hickey and Mohan 2005).
Similar debates are currently underway with regard to mechanisms of consultation. As with practices and policies of participatory development, consultative mechanisms, such as those discussed here, involve particular institutional constellations, focused on specific spatial scales and target populations. As with participation, consultative forums hold the promise of more democratic forms of development (Schilling-Vacaflor 2013). Unsurprisingly, however, this promise is rarely fulfilled and is easily subverted. This article aims not only to demonstrate how such subversion takes place, by examining how public consultation “works within particular spaces and times” (Williams 2004:562), but also to consider how it operates as a mode of power. The institutional pathways through which public consultation is enacted give rise to modes of action, scales of politics, and expressions of social identity that call to mind Foucault’s notion of governmentality (Foucault 1991). Governmentality, in Foucault’s felicitous phrasing, is about the “conduct of conduct”: “The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power” (Foucault 1991:102). Foucault emphasizes the way governmentality seeks to achieve the proper alignment of “men in their relations with . . . customs, habits, ways of acting and thinking . . . [T]o govern, then, means to govern things” (Foucault 1991:93–94). For instance, in her analysis of oil politics in Ecuador, Valdivia (2008:473) employs a governmentality lens to examine the “conjunctural nature of how petroleum’s government has become a mode of regulation of social life among specific sectors of Ecuadorian civil society.” Through the specificities of its political economy, its spatial character, and its role in articulating citizen identities with the territorial nature of the nation state, petroleum mediates the social and political life of the Ecuadorian nation and its citizens. In similar fashion, the institutional configurations, social practices, and epistemologies involved in the governance of mineral extraction and associated environmental degradation mediate social relations and political practice in Bolivia. The hegemonic character of the mining economy in Oruro, its historical influence on Bolivian political and social life, and its territorial nature—which extends the spatial influence of mining activity far beyond the point of extraction—circumscribe social life in myriad ways. Of particular importance to this study, and as discussed in greater detail below, are the social relations involved in formalized processes of public consultation. Although putatively intended to foster public involvement in environmental decision making, such processes frequently have the opposite effect. It is to this contradiction that the article now turns.

Consultation and its Contradictions

The right of Bolivia’s indigenous peoples to consultation regarding development activities on their lands, or which affect the environments and resources on which
they depend, was first established in 1991 by Law 1257, which ratified ILO 169. Perhaps unsurprisingly, however, the regulatory statutes (reglamentos) necessary for the law to function remained unfinished for over a decade, preventing the law’s implementation (Schilling-Vacaflor 2013). The full legal adoption of consulta previa would have to wait until 2007, when Congress (by then led by Morales’ MAS party) adopted Law 3760, which incorporated the 46 articles of the UNDRIP. Finally, the Bolivian Constitution, reformed during a contentious constitutional assembly and popularly ratified in 2009, establishes the right of indigenous, originario, and campesino peoples to consulta previa regarding extractive activities occurring on their lands (Oxfam/DPLF 2011). Section 15 of Article 30 of the Constitution states that indigenous, originario, and campesino peoples have the right

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\text{[t]o be consulted via appropriate procedures, and in particular through their own institutions, each time that legislative or administrative measures likely to affect them are foreseen. In this context, the obligatory right to prior consultation will be respected and guaranteed by the State, in good faith and agreed upon, with respect to the exploitation of non-renewable natural resources in the territory they inhabit. (My translation; my emphasis)}
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Moreover, Section 16 of Article 30 goes on to state that indigenous, originario, and campesino peoples have the right “[t]o participation in the benefits of the exploitation of the natural resources in their territories.” Furthermore, the right to “live in a healthy environment, with adequate management and use of ecosystems” is guaranteed in Section 10 of the same Article, a right that is extended to the entire population of Bolivia in Article 33.

Similar provisions for consultation are incorporated into sector-specific laws governing hydrocarbons and mining. In the case of the Hydrocarbons Law, Article 115 states, “Consultation is obligatory and the decisions that result from the Consultation process should be respected.” The same article goes on to specify that consultation must occur prior to the authorization and approval of hydrocarbon development projects, and prior to the approval of the required environmental impact study (Bascopé 2010). Importantly, however, an “opt-out” clause in the Hydrocarbons Law permits the state to ignore the results of consultation. Article 116 of the law states, “In a case where the consultation, recognized in Article 115, has a negative result, the State can promote a process of reconciliation in the greatest national interest.” In other words, if the state determines that a project is in the national interest, it is not obligated to abide by community wishes, even if the community is strongly opposed to extraction.

In contrast to hydrocarbon legislation, the 1997 Mining Code (Código de Minería, Law 1777), which governed mining until very recently, was less specific with regard to consultation. The only mention of consultation was in Article 15,
which states, “The precepts of Article 171 of the Political Constitution of the State [in force in 1997], and the dispositions pertinent to Convention 169 of the International Labor Organization ratified by Law No. 1257 of July 11, 1991 are applicable in the mining sector.” The revised Law of Mining and Metallurgy, 2014 (Law No. 198/2014–15), specifically provides for consulta previa under Article 19 (Participación de las naciones y pueblos indígena, originaria campesina). Moreover, Article 214 of this law guarantees “the right to free, prior and informed consultation, carried out by the state for the indigenous originario campesino nations and peoples, intercultural communities, and Afro-Bolivian people, as an obligatory, collective and fundamental right.” It is worth noting, however, that consultation is expressly *not* required for prospecting and exploratory activities (which can entail the use of explosives and heavy machinery). It has yet to be seen how effective the new law will be in fostering meaningful consultation in Bolivia’s mining sector. What is clear is that, up to the present, the principles of free, prior, and informed consent have simply not applied in relation to mining. Instead, consultation has taken the form of consulta pública (public consultation) and audiencia pública (public hearing), as opposed to consulta previa (prior consultation), and is intended to inform residents of affected communities of the impacts of mining and mining-related projects. These forums are conducted as part of the EIA process, and are a requirement to obtain the mandatory environmental license (*licencia ambiental*) needed to initiate a project. Thus, as with consulta previa in the hydrocarbons sector, consultas públicas and audiencias públicas are conducted before the results of EIA are known. As a result, participants in these forums cannot know the full implications of the project under discussion (Villegas 2010). Moreover, both critics and supporters of the mining sector emphasize that while consultation may be obligatory, abiding by its results is not. Given the vagueness of the law and the political economic power of the mining industry on the Altiplano, neither the state nor the mining companies feel obliged to take community input into consideration.

Despite their nonbinding character, however, consultation mechanisms have been invested with symbolic power. In the context of Evo Morales’ plurinational state, expectations have risen among indigenous and campesino populations for expanded participation in decision making and greater attention to environmental concerns (Jiménez 2012; Villegas 2010). In the case of mining, we can identify at least three sources for such expectations. First, concepts such as Pachamama and suma qamaña/sumaj kawsay/vivir bien⁴ have become integral to the government’s discourse in recent years (Zimmerer 2015). These concepts, frequently glossed as “Earth Mother” and “living well,” explicitly reference an idealized Andean ethic concerning social relations and the relationship between humans and nonhuman nature. Second, official recognition of a right to consultation—irrespective of its nonbinding character—has opened a discursive space for claiming a right to greater
participation in mining governance, as well as remediation of, and compensation for, environmental damage. As Fulmer (2011:49, my translation) notes, referring to public referenda in Guatemala and Peru, “In effect, using the law as a rhetorical resource seems to be as important as its use as a formal judicial resource.” In this sense, the formal right to consultation, irrespective of its nonbinding character, represents a political ideal around which people organize to contest the actions of mining firms and state agencies and seek to hold them accountable. Third, in October 2009, Morales released Presidential Decree 0335, which declared the Huanuni river watershed to be in a state of environmental emergency as a result of mining contamination, and mandated a broad-based government response (see below). By 2010, residents had reason to believe that the government would finally take action to reverse decades of environmental degradation. The legal right to consultation, then, however partial and imperfect, provides a discursive and political lever for people seeking redress from mining capital and the Bolivian state.

Unfortunately, however, state accountability has been called into question by Evo Morales himself, who has made public statements intended to delegitimize and denigrate the very principles of community consultation. For instance, in the early phases of conflict over the proposed road through the Territorio Indígena y Parque Nacional Isiboro-Sécure (TIPNIS), in which the lack of consultation became a flashpoint for protest, Morales stated in no uncertain terms, “the consultations are constitutionalized, but they are not obligatory” (La 2011). Even more disturbingly, Morales has referred to consultation as a “waste of time,” an “obstacle” to development, and a form of “blackmail” (chantaje), whereby various indigenous groups demand money from the government or extractive firms (AINI 2011; OBIE 2010). Such language is reminiscent of accusations made by former Peruvian President Alán García, a noted neoliberal, who famously called indigenous peoples and environmentalists “dogs in the manger” (perros del hortelano), who do not adequately use the country’s natural resources, even as they seek to prevent others from doing so (García 2007; see also Bebbington 2012).

Clear tensions exist, then, between the government’s discourses of pachamamismo and suma qamaña/sumaj kawsay, on the one hand, and its commitment to resource extraction, on the other (Schilling-Vacaflor 2013). In the mining sector, this tension is encapsulated in the practice of consultation, which is intended to inform affected populations of the impacts of extractive activities and gather community input, but which may then be ignored by private firms and the state. The power relations inherent in these arrangements are as obvious as they are inequitable, as will be shown through a discussion of two such forums, below.
Public Participation as Social Exclusion

In the early 2000s, residents of Oruro and nearby rural communities affected by mining contamination began to mobilize in order to pressure the state mining firm COMIBOL, private firms, and state environmental and mining ministries to undertake environmental remediation. This organizing effort gave rise to the Coordinadora para la Defensa de la Cuenca del Río Desaguadero y Lagos Uru Uru y Poopó (Coordinator for the Defense of the Desaguadero River Basin and Lakes Uru Uru and Poopó, CORIDUP), a network of some 80 rural communities and urban neighborhoods. CORIDUP is supported by the Bolivian environmental and social justice NGO Centro de Ecología y Pueblos Andinos (Center of Ecology and Andean Peoples, CEPA), and led by a group of activists from the city of Oruro. CORIDUP and its member communities demanded that the government take action to address mining pollution in the Huanuni watershed. In July 2009, when I began my research in Oruro, excitement was building as people anticipated Morales’ eventual decree. When I returned in June 2010, eight months after the decree’s release, CORIDUP members were attending meetings that related to the decree. These meetings were increasing in frequency, and were taking a number of forms. In this section, I examine two such meetings: the first involved residents of the Antequera watershed but was held in the city of Oruro, while the second was held in the mining center of Huanuni for members of adjacent communities.

Residents of the Antequera watershed, near the eastern shore of Lake Poopó, southeast of the city of Oruro, had requested an audiencia pública with the Ministry of Environment and Water, to express their grievances about pollution affecting the Antequera watershed and to request government action. The Antequera river, which flows into Lake Poopó, is contaminated by acid drainage and heavy metals that leach from numerous mines, most notably the Bolivar and Marta mines, operated by the private firm Sinchi Wayra, which in turn is owned by Swiss-based multinational Glencore. The mines produce silver, lead, and zinc, the minerals most commonly produced in this region. These are belowground (as opposed to open-pit) mines, but are massive in scale; the Bolivar mine ranks among the largest mining operations in the country (Perales 2014). The second meeting concerned a consulta pública held by an engineering firm contracted by the Huanuni Mining Company to build a badly needed waste retention dike. The Hununi tin mine is the last remaining mine to be operated by the state-owned Bolivian Mining Corporation (COMIBOL), via the Huanuni Mining Company. As one of the largest mines in the country, it employs some 5,000 miners. Huanuni is the single largest contributor of mine-related contamination in the Lake Poopó-Uru Uru basin, and was the target of the 2009 presidential decree.

Unless otherwise indicated, the discussion below is based on my participant observation at these public forums, as well as informal conversations with forum...
participants, and semistructured interviews with community residents, activists, state officials, and COMIBOL representatives. I conducted this research as part of a broader project in collaboration with CEPA and CORIDUP, which focuses on the relationship between mining, water, and rural livelihoods in Oruro department. In addition to participant observation at public consultations, community-based meetings, mine inspections, and other events, I conducted 46 semistructured interviews with state officials and COMIBOL representatives, researchers, community residents, and local activists. I also surveyed 125 households in the Huanuni valley to assess residents’ perceptions of mining, and the effects of water contamination on their lives and livelihoods.

Vignette 1: Antequera

I was among the first to arrive for the audiencia, and with a few others I waited outside the church hall in the morning cold. The functionary from the Ministry of Environment who was in charge of the proceedings chose to hold the meeting in the city of Oruro; it was to begin at 9 a.m. This was despite the fact that the Antequera community lies over 50 kilometers to the south of the city, much of it to be traversed by a rough two-lane dirt road. Virtually all residents would have had to rely on local buses to transport them to the city—a notoriously slow mode of transportation in rural Bolivia. Despite the difficulties of an early morning and a long bus ride, over 50 community residents made the journey north to Oruro, although during the meeting one man expressed his displeasure at the meeting’s location, asserting that the environmental authorities should travel to Antequera, to see for themselves the damage that has been done.

The meeting started late, as meetings of this sort invariably do, but eventually the Comité Técnico (Technical Committee) was in place and the proceedings began. The Comité Técnico, consisting of four representatives of various government agencies (both departmental and central government), and one representative of COMIBOL, sat behind a long table on a low stage, facing the community members. A secretary—a young, male lawyer—sat at a small table, arranged perpendicularly to where the community members were seated, and took detailed notes on a laptop computer during the meeting, which he later wrote up into an Acta or official account of the proceedings. The audiencia began with the secretary reading aloud the ground rules, which stipulated that the topic of discussion would be limited to pasivos ambientales (mine tailings and formerly processed materials that are no longer worked, and therefore are “passive” sources of environmental pollution), and suggestions for addressing this problem. No complaints or denunciations were to be allowed, and other issues would not be discussed. Each person would be permitted to speak just once (a rule that was not enforced), for a maximum
of five minutes (a rule that was enforced). The rules also established that the president of the Comité Técnico, a young woman whom I shall call Ingeniera González, who holds a position with the Ministry of Environment, had the right to interrupt speakers and stop them if they strayed beyond the boundaries set by the rules. Ing. González enforced this rule assiduously, if somewhat selectively. She also demonstrated a clear bias: educated men, who were more polished speakers than the campesinos/as in attendance, were allowed more time to speak, regardless of their viewpoint. These included a lawyer from the municipality of Antequera, another representative of the municipality, and a local environmental activist. Less well educated residents, who were not polished public speakers—almost all of them women—were interrupted repeatedly and not permitted to speak for their allotted five minutes. Ing. González was quicker to cut them off, and demonstrated less patience for their concerns. This practice had the effect of replicating the Bolivian state’s historical discrimination against rural residents, and particularly rural women, as unrefined, uneducated, and ultimately unworthy of serious consideration.

The first person to speak was a woman from Antequera; she is affiliated with CORIDUP (although she did not mention this affiliation during the meeting). Within the first minute of her statement, Ing. González interrupted her and told her she was off topic, and that she would not permit statements that did not address the issue of pasivos ambientales. Ing. González was dismissive of the woman’s interests, said that her concerns were not relevant to the meeting, and they should not be discussed in this forum. It is true that the woman’s statement did not directly address pasivos ambientales, and so in a strict sense it was beyond the framework established by the audiencia rules. However, as many of the meeting’s participants pointed out, by limiting discussion to pasivos ambientales, the comité técnico took an exceedingly reductionist approach to a complex problem. In the everyday experience of people affected by mining pollution, these problems take many forms and have many sources, and influence agriculture and livestock, water, human health, livelihood opportunities, and migration out of the region. Community residents also objected to the historic lack of responsiveness from the state and mining companies. That Ing. Gonzalez quickly adopted so combative a tone did little to diminish these concerns.

Despite the Comité Técnico’s narrow framing of the audiencia, community members raised a broad array of concerns. Some residents stated flatly that Antequera should be included in the request for a declaration of environmental emergency, which was to include only the Huanuni watershed to the north. When community residents brought up the issues of acid drainage, or the need to build a containment pond for actively produced mining waste, Ing. Gonzalez interrupted and asserted that the discussion would be limited to pasivos ambientales. Her attempts to narrow the discussion were resisted at every turn, however. At one point,
a man lost patience with the proceedings, and shouted, “How long are we going to discuss pasivos ambientales?” He asserted that they knew the topic well, since they live with it every day. They know it is a problem, he insisted; the government should remove the pasivos ambientales to eliminate the problem. A woman from Antequera said that the residents of the area did not need any more meetings; instead, they need government action. She went on to assert that the people of Antequera demanded justice. Similar dynamics were evident in the consulta pública in Huanuni, to which the article now turns.

Vignette 2: Huanuni

I accompanied a group from CORIDUP to the mining center of Huanuni, where we attended a consulta pública held by COMIBOL. The topic of discussion was the retention dike (dique de colas) that the mine was planning to build at Cataricagua, just upriver from the town and mine complex. The project was in the planning phase, and the company was in the process of writing the environmental impact statement needed to obtain their environmental license—a legal requirement for proceeding with the project. The stated objectives of the meeting were to disseminate information about the project, and to collect ideas, concerns, and recommendations from the local population. Although this legally mandated consulta pública is formally meant to encourage public participation, this particular meeting mostly involved representatives of the Huanuni Mining Company telling the gathered audience what the company was going to do. The presenters did not solicit recommendations, or engage audience members in meaningful dialogue. The meeting was held in the town of Huanuni, not far from the entrance to the mine complex, at the theater of the educational center of the Federación Sindical de Trabajadores Mineros de Bolivia (Bolivian Mine Workers’ Federation, FSTMB), the union for COMIBOL employees. The consulta was transmitted by Radio Minero, a local radio station, which was an indication of its importance to the region as a whole.

The theater was adorned with murals celebrating Bolivia’s mining history, and the bravery of the men who did this dangerous job. The theater was dim, with the only light coming from small windows in the back, and the bright lights that illuminated the stage. In what seemed to be a metaphor for the meeting as a whole, the audience was kept largely in the dark. The two moderators, a young subcontracted engineer and a more senior representative of the company, stood on the stage, elevated a meter or more above the audience. In contrast to the Antequera meeting, this was a thoroughly male affair. Not only were both moderators men, but virtually everyone in the audience—a group of miners and residents of local
communities—was also male. The few women in the audience, mostly at the back of the theater, remained silent throughout.

The project under discussion was a short-term containment dike, meant to last just three years, as a stop-gap measure while the company negotiates with a nearby community for land and permission to build a larger dike and retention facility (meant to last up to 25 years). Processed material from the mine’s ingenio (processing plant), which contains heavy metals and other toxins used in the processing of ore, would be pumped to the containment pond behind the dike. This measure would significantly reduce the amount of waste material entering the Huanuni river, and therefore ameliorate the environmental impact on communities downstream. The young consultant running the meeting, whom I shall call Álvaro, acknowledged that other sources of pollution would continue to flow into the river. This would especially be the case during the rainy season, when acid runoff and sediments from nearby slag heaps wash into the river and its tributaries.

Following Álvaro’s presentation of the project, the group began a question and answer session in which queries were written on cards and given to Álvaro to address, although some comments were stated aloud. One member of the community negotiating with the Empresa Huanuni over construction of the large dike and containment pond complained that the company had never consulted with them about the use of their lands, and when community residents complained the company sent soldiers to intimidate them. A company representative took the stage and vociferously denied this claim, asserting that the company had worked with local residents, and had never sent soldiers into the community. He went on to say that the project had been participatory from the beginning. Álvaro and another representative of the company assured the audience that the project under consideration would have benefits not just for the local communities, but for the whole watershed, and in particular for the dozen or so communities downstream from the mine site.

Another resident of a local community complained that the consultation process had not been truly participatory, since the company knew from the start what it was going to do. From this man’s perspective, the project had already been planned in full, and the company was merely completing the steps necessary to obtain the environmental license. In his view, the consulta pública was nothing more than a technicality. The man complained that, regardless of the optimistic language of the consultant, there were no guarantees of jobs or other benefits for the nearby communities. He also scoffed at Álvaro’s assertion that the project would help strengthen environmental awareness and education. He pointed out that Huanuni is already polluted in the extreme, and that the containment pond would do little to change that fact. The representative of the mine company responded by reiterating that the dike would benefit the whole watershed, and that there needed to be an integrated campaign to build environmental awareness. He went on to talk about
littering, and how it is everyone’s responsibility to stop litter in Huanuni. At this point, numerous audience members spoke up at once, pointing out what must have seemed obvious to everyone present: that there is a fundamental difference between litter thrown in the street—however unsightly it may be—and untreated mine waste systematically discharged directly into a river.

From the back of the audience, a miner rose to speak. Unlike most of the others present at the meeting, this man wore new clothes and protective gear. It was clear both from his appearance and his statement that he held a position of authority in the company. He said that the company had hired some 30 local community members for another project, but that only seven of them stayed on the job, while the other 23 either failed to show up on time, would leave early, or simply stopped coming to work. He argued that community members continually demanded jobs, but in his view very few of them were good workers. Shortly after this man’s statement, Álvaro ended the meeting. There was little effort to reconcile the obvious differences between the company and the local residents, and no feeling of resolution. Tension hung in the air as audience members filed out, expressing their dissatisfaction.

Performing Participation

Of course, we must not read too much into these two events. In the case of the Antequera audiencia, Ing. González, who ran the meeting to the exclusion of the other technical committee members, is well known for her forceful personality and the brusque way in which she relates to community residents. However, the structure of the audiencia extended beyond the actions of one individual. The entire forum—held in the departmental capital at an hour that made it difficult for residents to attend; the comité técnico distanced from community members by a table and a stage; the detailed rules of behavior, arbitrarily enforced; the reductionist focus of the discussion, which served to isolate pasivos ambientales from their broader environmental and social context—seem designed not to promote meaningful participation in decision making, but rather to circumscribe community input according to a narrow, rigid framework. In the words of one woman at the audiencia, community members demand justice. However, their desire is unlikely to be fulfilled through public forums of this sort, which serve above all to render technical what are, in essence, deeply uneven relations of social power (Li 2007). Indeed, it is a telling irony that a public forum ostensibly intended to promote consultation and participation among community residents affected by mining so thoroughly succeeded in achieving the opposite effect.

In the case of the consulta pública at Huanuni, communication was markedly one way. While participants were given the opportunity to voice their concerns,
this mostly took the form of written questions, to which Álvaro would respond in
the briefest manner possible. This gave Álvaro the opportunity to choose which
questions to address, and to reinterpret concerns in light of his answers. This
highly regimented format circumscribed participation and limited opportunities
for meaningful input. Not surprisingly, audience members were quickly frustrated
by this format, and began to voice their concerns aloud, exposing deep-seated
tensions between the mine company and community residents. As was clear to
everyone present—perhaps even the moderators—this was pro forma participa-
tion, conducted for the purpose of obtaining the legally required environmental
license. There was little hope of engaging affected residents in meaningful dialogue
about the implications of the project (nor any apparent intent to do so), much
less about the governance of the mining waste or contaminated water that shapes
their lives.

The institutional framework established through the governance of envi-
ronmental degradation—the environmental laws, public forums, avenues for
compensation—circumscribe the opportunities for action and discursive fields
available to community members (see Agrawal 2005). In Foucauldian terms, con-
sultation is a technology of government, meant to promote participation of a sort,
through a narrowly defined set of rules and practices, in order to produce a “conve-
nient” alignment of people and things—in this case, community residents in their
relations with mining firms, environmental contamination, and the institutions
of the state. In practice, however, this effect is achieved imperfectly. It is clear that
institutional frameworks cannot determine social action, nor can they force com-
pliance. If Ing. González and Álvaro entered their respective meetings expecting
to find pliant subjects ready to conform to established rules, they were quickly
disappointed. But institutional frameworks and the modes of action they promote
or discourage help to establish a range of acceptable behaviors and engender par-
ticular forms of social relations (Hale 2004). Consultation mechanisms channel
discontent through acceptable modes of discussion and provide the appearance of
participatory governance, while permitting extractive activities to continue apace.
In so doing, consultation helps legitimize resource extraction and associated state
policies, allowing for the incorporation of internationally sanctioned “best prac-
tices” while doing little to challenge underlying social inequalities. In Bolivia’s min-
ing sector, consultation mechanisms, as a set of regularized, scripted practices, are
mundane performances of bureaucratic action, in which modes of conduct are de-
lineated, certain social orders produced, and citizens enrolled into state projects of
resource extraction and, by extension, national development (see Goldstein 2004).
They are, in essence, everyday performances of state power (Howard 2010). Far
removed from the grand spectacles of regional identity among right-wing activists
(Fabricant 2009; Gustafson 2006), the violence of public lynchings (Goldstein
2004), or official performances of indigeneity (expressed, for instance, through the mass wedding presided over by Evo Morales (Postero nd; see also Perreault and Green 2013), these performances are constituted through mundane, even banal, practices: governmentality through the soft hammer of everyday statecraft. Such quotidian performances by state and industry functionaries serve to extend state authority and surveillance into the lives of community members (Ferguson 1994), even as they obscure underlying inequalities that facilitate, and are produced by, resource extraction.

Conclusion

The environmental degradation that stems from mining activity is but one manifestation of broader processes of social exclusion at work in the Andean region. As Madrid et al. (2002) note, mining has played a hegemonic role in Oruro, while all other social and economic relations have been subordinated to, and made dependent upon, the mining economy. Indigenous/originario and campesino communities, while only partially integrated into the mining economy, have nevertheless been subject to its boom and bust economic cycles, as well as to the vast amounts of contamination that have accumulated in the region. Since the time of the earliest Spanish excavations at Potosí, Bolivia’s mining industry has been oriented toward the export of minerals for world markets. These metals have created vast fortunes, but little of that wealth has remained in the regions of extraction.

In Bolivia, communities affected by mining are shaped by historically sedimented and deeply asymmetrical relations of power and social exclusion; these relations are now reproduced through the kinds of processes of public consultation that have been outlined here. The right to consultation is well established in Bolivian law and, since 2009, has been stipulated in the Constitution. Further, it has been incorporated, albeit imperfectly, into the Hydrocarbons Law and the Mining Code, as well as the new Law of Mining and Metallurgy and the proposed Law of Prior Consultation. However, if the right to consultation is codified in law, its nonbinding character is similarly well established, which calls into question the function as well as the form of consultation processes. As the cases examined here illustrate, consultation serves less to engage citizens in democratic dialogue than to manage unruly subjects. In such cases, consultation “renders technical” the deeply contentious processes of resource extraction and the associated socio-environmental impacts (Li 2007). In the words of James Ferguson (1994), the mechanism of consultation functions as an “antipolitics machine,” intended to depoliticize contentious processes that entail profound transformations of peoples’ lives, livelihoods, and landscapes. I have argued here that consultation mechanisms in Bolivia’s mining sector may be viewed as everyday, even banal,
performances of state power, which serve to produce (or reinforce) a certain social order and to enroll its citizen subjects. But as Daniel Goldstein (2004:16) argues, performance is as much about concealing as it is about making visible: it concerns “controlling what is to be seen, when, and by whom” (see also Fabricant 2009). Consultation, in this sense, is a performance of participation, which obscures the deeply uneven relations of social power inherent in resource extraction—relations that extend beyond the pervasive inequalities in mining regions to include Bolivia’s insertion into global capitalism as an exporter of primary commodities (Kohl and Farthing 2012). As a mechanism by which to circumscribe social relations through the management of environments, in order to establish a convenient alignment of people and things—mine sites, state institutions, contaminated soil, and water—consultation is a technology of government par excellence. As a mode of democratic participation, in which the concerns and aspirations of marginalized populations are taken into account, however, consultation has yet to live up to its liberatory promise.

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Notes

1The Anteproyeto de Ley de Consulta Previa, Libre e Informada was proposed in August 2013; as this article goes to press (September 2015), it is still under consideration.

2Consultas públicas are established in Article 162 of the regulatory statutes (reglamentos) associated with the 1992 Environmental Law (Law 1333): “In the phase of identifying impacts for consideration in the EIA, the legal representative should effect Public Consultation to take into account observations, suggestions and recommendations of the public that could be affected by the project, work or activity” (my translation).

3Article 79 of the regulatory statutes associated with the 1992 Environmental Law (Law 1333) states, “In case of petitions and initiatives, Competent Environmental Authority will convocate a public audience in accordance with Article 94 of the Environmental Law” (my translation).

4“Suma qamaña” (Aymara), “sumaj kawsay” (Quechua), and “vivir bien” or sometimes “buen vivir” (Spanish) refer to ethical life and livelihood, in relation to broader social obligations, and
obligation to nature, marked by reciprocity. “Pachamama,” most frequently glossed as “Mother Earth,” or “Earth Mother,” is an indigenous Andean concept linking humans and the nonhuman, which is similar to—though, I would argue, more expansive than—the Euro-American concept of “nature.” All these concepts infer a sense of socio-natural connection and ethical obligation. For in-depth discussions, see Radcliffe (2012) and Zimmerer (2015).

5Pasivos ambientales, which consist of excavated rock, are sources of acid drainage, as rainwater percolating through the rock comes into contact with oxidized minerals. Article 46 of the 1992 Environmental Law (Law 1333) defines “pasivos ambientales” as “(a) the combination of negative impacts that are hazardous to health and/or the environment, caused by specified works and existing, in a determined period of time; (b) environmental problems in general that are not resolved by specified works or activities” (my translation).

6“Ingeniera” means engineer, a title reserved for persons with technical and scientific degrees; abbreviation “Ing.”

7In June 2010, this request was officially denied, as Juan Pablo Ramos (Vice Minister for Environment, Biodiversity, Climate Change and Forest Management) asserted in a letter to the Nación Sura, the indigenous/originario organization of which communities in the Antequera watershed are a part. He said that the Presidential Decree would not be extended beyond the Huanuni watershed. Antequera residents are currently working with CORIDUP to draft a proposal for a new decreto supremo to declare the Antequera watershed an environmental emergency.

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