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Contemporary debates on social-environmental conflicts, extractivism and human rights in Latin America

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This opening contribution to ‘Social-Environmental Conflicts, Extractivism and Human Rights in Latin America’ analyses how human rights have emerged as a weapon in the political battleground over the environment as natural resource extraction has become an increasingly contested and politicised form of development. It examines the link between human rights abuses and extractivism, arguing that this new cycle of protests has opened up new political spaces for human rights based resistance. Furthermore, the explosion of socio-environmental conflicts that have accompanied the expansion and politicisation of natural resources has highlighted the different conceptualisations of nature, development and human rights that exist within Latin America. While new human rights perspectives are emerging in the region, mainstream human rights discourses are providing social movements and activists with the legal power to challenge extractivism and critique the current development agenda. However, while the application of human rights discourses can put pressure on governments, it has yielded limited concrete results largely because the state as a guardian of human rights remains fragile in Latin America and is willing to override their commitment to human and environmental rights in the pursuit of development. Lastly, individual contributions to the volume are introduced and future directions for research in natural resource development and human rights are suggested.

Keywords: extractivism; environment; human rights; rights of nature; development; Latin America

Introduction

Natural resource exploitation, and the increasing number of large-scale and mega-development projects in the region, has made Latin America one of the most dangerous places for human rights activists and environmentalists in the world. Even progressive governments such as Ecuador have employed a zero-tolerance policy towards anyone opposing natural resource extraction. Ecuadorian authorities have led a campaign to vilify and stigmatise indigenous groups and social movements, labelling them ‘environmental extremists’ or ‘terrorists’ in an attempt to build a framework of acceptance for curtailing human rights in the name of development. President Rafael Correa even attempted to close down the country’s leading grassroots environmental organisation, Acción Ecológica, in a clear reprisal over their support for the Shuar Indigenous People who are embroiled in a bitter conflict with the government over a planned mega-copper mine on their ancestral lands in the southern Ecuadorian Amazon. The link between human rights abuses and natural resources

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has become the focus of growing concern as governments throughout the region push through major development projects without integrating economic, social and cultural rights. Although the continent has a long history of extracting and exploiting natural resources dating back to the colonial era, there has been a marked increase in these activities in the region in the last decade or so, associated with the strong international demand for raw materials and a cycle of high prices. However, the recent downturn in the price of minerals and hydrocarbons has further exacerbated the problem, as the decline in profits is offset by the further expansion of extractive frontiers. The proliferation of extractivist activities and its diversification into new areas such as hydroelectricity has significantly impacted on the enjoyment of human rights across the hemisphere and has become a permanent cause of social-environmental conflicts. While governments and multinational corporations have been riding the wave of the commodities boom, indigenous and peasant communities have found themselves 'at the leading edge of both the extractive capital frontier and the related social conflict'.¹ These social-environmental conflicts are not isolated but are occurring throughout the continent, engaging communities in a continual battle against natural resource exploitation and the forces of global capital, resulting in repeated and widespread clashes, violence, repression and human rights abuses perpetuated by the state or security forces. As the anthropologist Philippe Descola observed, '[o]ne does not have to be a great seer to predict that the relationship between humans and nature will, in all probability, be the most important question of the present century'.² Yet, despite this, the relationship between human rights, extractivism and the environment remains under-researched and under-theorised.

Human rights have emerged as a weapon in the political battleground over the environment as natural resource extraction has become an increasingly contested and politicised form of development. Latin American governments have pursued extraction relentlessly, regardless of the socio-environmental costs and the abrogation of the most fundamental human rights that this development model entails. A report published by Inter-American Commission on Human Rights in 2015, while stating that states have the freedom to exploit their natural resources through concessions and private or public investments of either a national or international nature, also importantly emphasised that these activities should not be executed at the expense of human rights and justice.³ Along with this increasing recognition of the linkage between human rights and extractivism, questions are also being raised within human rights law over approaches to environmental protection and recognition of intercultural perspectives. The explosion of social-environmental conflicts that has accompanied the expansion of extractive activities has posed a challenge to the political and economic ideology of the current development model. This challenge comes from the new relational ontologies of local and indigenous communities and cultures who have opened up debates about the relationship between the human and non-human world, the rights of nature and human rights and duties.

While extractivism previously referred to activities that involved extracting, such as in mining, oil and gas, the term is now increasingly used to refer to the accelerated pace of natural resource exploitation at an industrial level and the construction of mega-projects and infrastructure intended to make full use of natural resources.⁴ During the expansion of the extractive and infrastructure frontiers in Latin America, territories that were previously isolated or protected and 'often biologically fragile environments populated by vulnerable populations who share their land with minerals or energy sources' have been opened up for exploitation.⁵ According to a study conducted by Global Witness, 2015 was the worst year on record for the murder of land and environmental defenders with a total of 185 assassinations across the globe.⁶ In March 2016, the United Nations (UN)

Human Rights Council adopted a landmark resolution requiring states to ensure the rights and safety of human rights defenders working towards the realisation of economic, social and cultural rights.⁷ Speaking ahead of World Environment Day 2016, The UN Special Rapporteur on Human Rights and the Environment, John Knox, along with the UN Special Rapporteur on the Situation of Human Rights Defenders, Michel Forst, and the UN Special Rapporteur on the Rights of Indigenous People, Victoria Tauli Corpuz, issued a joint statement urging governments to protect environmental rights defenders.⁸ However, increasingly governments across Latin America are criminalising social protests through the use of repressive legislation, and deterring or curtailing communities and activists from political mobilisation through the use of violence, kidnapping, torture, harassment and threats. The link between environmental injustice and human rights transgressions highlights the urgent need to bring together human rights and the environment, 'two dominant legal and social discourses often assumed to have at best an uneasy, and at worse an antithetical relationship'.⁹

The murder of Berta Cáceres, a well-known activist for indigenous rights, human rights and environmental protection in Honduras in March 2016 exposed the level of violence that often accompanies mega-projects and resource extraction in Latin America as indigenous communities and governments clash over the use and control of natural resources and land. Opposing the construction of four dams designed to power future mining operations along the Gualcarque River, an area sacred to the Lenca indigenous community in western Honduras and known collectively as the Agua Zarca Dam, Cáceres waged a grassroots campaign that successfully pressured the world's largest dam developer, Sinohydro, to pull out of the project. From the Chevron case in Ecuador, to the Belo Monte dam protests in Brazil and the TIPNIS (*Territorio Indígena y Parque Nacional Isiboró Securé*) dispute in Bolivia, communities and activists across Latin America are engaged in struggles against extractive or damaging infrastructural activities taking place in their territories. Current Latin American governments' continued fidelity to the neoliberal developmental agenda, coupled with globalisation, has led to a new cycle of protests in the region and opened up new political spaces for human rights based resistance in natural resource governance to transnational networks of (indigenous) social movements, human rights actors and nongovernmental organisations to mobilise.

Despite the widespread optimism that the alternative platforms put forward by the left and centre-left governments would transcend modernist development paradigms following the legitimacy crisis of neoliberalism, apparently progressive governments have not only continued but have intensified the neoliberal policy of extractivism. This has led to a plethora of social-environmental conflicts and the continued violation of both human and environmental rights throughout Latin America as democratic processes are eroded alongside renewed efforts to expand extractive frontiers. This opening contribution examines the link between human rights abuses and extractivism, arguing that this new cycle of protests has opened up new political spaces for human rights based resistance. Furthermore, the explosion of socio-environmental conflicts that have accompanied the expansion and politicisation of natural resources has highlighted the different conceptualisations of nature, development and human rights that exist within Latin America. Peasant and indigenous communities have found themselves at the forefront of the resource wars as they clash with governments and multinational corporations over the use and control of the global commons. With current international law on environmental management by sovereign states limited to managing the environment in a manner that the misuse of natural resources does not disadvantage other states,¹⁰ the international human rights framework has become increasingly important. The potential of human rights to act as 'language of protest' and a

'platform for change'¹¹ has contributed to the increasing transnationalisation of human rights discourses in the last two decades and led to the development of transnational human rights networks that bring together ordinary social actors in their pursuit against similar claims of injustice. While new human rights perspectives are emerging in the region, mainstream human rights discourses are providing social movements and activists with the legal power to challenge extractivism and critique the current development agenda. However, the application of human rights discourses so far has yielded limited results largely because the state as a guardian of human rights remains fragile in Latin America and is willing to override their commitment to human and environmental rights in the pursuit of development. The article is concluded by discussing the individual contributions to the volume and also future directions for research in natural resource development and human rights.

Alternatives to development and extractivism

The dilemma between exploiting natural resources for socio-economic development and defending both human and environmental rights represents a major challenge for Latin American countries. Since colonial times, Latin America's relationship with natural resources has been a source of conflicting political, social and economic dynamics. As Haarstad comments, 'natural resources have traditionally been considered a curse on Latin American societies, from the plundering of the colonial era to the ills of commodity dependency in later years'.¹² Moreover, the socio-economic conditions produced by extractivist-based economies have contributed to ecological destruction, widespread poverty and social injustice throughout the region. Schmink and Jouve-Martin explain that 'Latin America's historical dependency on natural resources, both for local livelihoods and to supply an evolving global market, has made environmental issues central in policy debates and in widespread contests over the meaning and use of natural species and habitats, carried out against the region's persistent legacy of inequality'.¹³ This 'curse of abundance' has created the preconditions for not just political but financial, commercial, social and energy instability.¹⁴ This continued reliance on the exploitation of non-renewable resources perpetuates neocolonial power relations based on the export-led growth model, with incalculable environmental consequences, and further undermines democratic institutions by creating a 'paternalistic state', one 'whose political impact is a direct result of its ability to manage a higher or lower participation in the mining or oil revenues'.¹⁵ Protecting the large revenues associated with extraction often requires high levels of violence and repression in the extractive enclaves as multinational companies and governments seek to guarantee the supply of natural resources though the opening up of remote frontiers and networks of connectivity.¹⁶

Latin America's move away from the Washington Consensus model, with its focus on finance and neoliberal governance, towards the Commodity Consensus, focused not on the re-design of the state but on enabling the large-scale export of primary products, has marked the beginning of a new political-economy order that challenges existing state and social structures and curtails democracy in the region.¹⁷ Veltmeyer and Petras describe this turn towards natural resource extraction, which relates to a 'predatory and backward form of capitalism dominant in the nineteenth century' – the era of conquest and extractive colonialisation – as 'extractivist imperialism' or 'imperialism of the twenty-first century'.¹⁸ Driven by the high profits associated with natural resource extraction, governments have refocused their attention on the large-scale extraction of natural materials. As Svampa remarks, 'in terms of the logic of accumulation, the new Commodities Consensus adds to the

dynamic of dispossession of land, resources and territories whilst simultaneously creating new forms of dependency and domination'.¹⁹ The commitment by Latin American governments to expand the extractive economy has led to the repoliticisation of minerals and a general unwillingness by leaders to consider demands for environmental justice or to allow civil society to play an increased role in mineral politics.²⁰ In his now infamous 2007 manifesto on a modern extractive economy, the former Peruvian President Alan García argued that civil society groups and environmental activists opposed to mining and natural resource exploitation were standing in the way of the country's progress and compared them to Aesop's dog-in-the-manger.²¹

Svampa argues that a combination of three axes – euphemistically described as 'sustainable development', 'corporate social responsibility' and so-called 'good' governance, have created a shared framework of the neoliberal discourse that aims to legitimise extractive economic projects. First, the concept of sustainable development has become associated with a diluted idea of sustainability, whereby the limits to growth proposed by environmentalists have been shifted. 'Development' rather 'sustainable' is the operative word in this formulation. This version of sustainability promotes an eco-efficient position that continues to view nature as capital while embracing the so-called 'green' growth and new technological 'fixes' to overcome social and environmental problems. Second, the concept of corporate social responsibility (CSR) has been widely promoted by the UN to promote voluntary compliance with human rights, environmental and labour standards and adopted by many large transnational corporations to neutralise criticism of the harmful impacts of their economic activities. CSR recognises that corporations are the primary subjects of globalised economies and they ought to be accountable for dealing with any conflicts relating to the social, economic and ecological impacts that arise as a consequence of their activities.²² In 2011, the UN Human Rights Council adopted the Guiding Principles for Business and Human Rights. The first corporate human rights responsibility initiative to be endorsed by the UN, the framework set out three guiding principles for preventing and addressing the risk of adverse human rights impacts linked to business activity. These Guiding Principles included: states' existing obligations to respect, protect and fulfill human rights and fundamental freedoms; the role of business enterprises as specialised organs of society performing specialised functions, required to comply with all applicable laws and to respect human rights; and the need for rights and obligations to be matched to appropriate and effective remedies when breached.²³ Third, CSR has become connected to the concept of governance as a micro-political conflict resolution mechanism between multiple actors, promoting the idea that a symmetrical relationship exists between those involved and viewing the different levels of the state as another participant.²⁴

Further, although the 1986 Declaration on the Right to Development was initially viewed as progressive because of its promotion of social progress, the declaration has also provided a human-rights-based justification for exploiting the world's natural resources and damaging the environment. The right to development has proved to be problematic in that it has strengthened the position of sovereign states, particularly, 'the integrity of the independence of governments over the geographic areas that states have been able to call their own' and their natural resources and natural wealth found within their geographic boundaries.²⁵ This strengthening of national sovereignty has and continues to hinder the emergence of a viable solution to the environmental challenges we face today and to the universal right to health as well an environment to sustain this.

Despite the region's changing political climate evidenced by the rise of left and centre-left governments in countries such as Bolivia, Brazil, Ecuador and Venezuela, this shift was also accompanied by new post-neoliberal and post-development agendas to enable these

states to secure their competitive advantage in meeting the global surge in demand for raw materials. Extractivism was thereby cemented as the cornerstone of growth-oriented development policies in Latin America. The alternative platforms – neo-extractivism – put forward by these governments have purported to transcend traditional growth-centric economic models and break imperialist dependency by offering radical alternatives to the way in which socio-economic development discourses are constructed. Unlike conventional extractivism, characterised by the limited role of the state often subordinated to the interests of transnational corporations, under the framework of neo-extractivism, the state has taken on a more interventionist and regulatory role, introducing a new socio-political dimension into the practice of extractivism. Thus, while Latin America's progressive governments have created a new type of extractivism that bears an apparently 'progressive stamp' through the regulation of the appropriation of resources, increase in export duties and taxes, renegotiation of contracts and redirection of surplus revenue to social programmes, natural resource extraction has intensified.²⁶ However, Bebbington and Bebbington comment that, 'the troubling face of this policy convergence has been the predisposition toward authoritarian imposition of the model combining occasional use of force with efforts to delegitimise those who question extraction'.²⁷ This policy disposition has led to a plethora of social conflicts that are not just manifestations of struggles over human rights, forced displacement, citizenship and control over political economic processes and natural resources but, as Blaser argues, are also in defence of the 'complex webs of relations between humans and nonhumans' that for indigenous peoples are 'better expressed in the language of kinship than in the language of property'.²⁸ Furthermore, as Veltmeyer and Petras argue, the social and political struggles surrounding extractivism have given rise to a new class struggle predominately in rural areas. This has created a new proletariat composed of waged workers and miners, indigenous communities, peasant farmer communities and semi-proletarianised rural landless workers who form the backbone of the forces of resistance against the 'workings of capitalism and imperialism in the economic interests of the dominant class'.²⁹ In the face of natural resource exploitation, new theoretical, political and economic conceptualisations of the relationship between humans and the natural environment are being formulated, assessed and challenged in Latin America.³⁰

Although the Washington Consensus is being questioned in Latin America, the neoliberal discourse is still very much hegemonic. Indeed, neoliberal ideology has been interwoven with neo-extractivism, the new so-called progressive development rhetoric.³¹ Neo-extractivism bares the usual stamp of prioritising economic growth and national development agendas over human and environmental rights. Neo-extractivism has become 'a part of South America's own contemporary version of development, which maintains the myth of progress under a new hybridisation of culture and politics'.³² Yet, even under its contemporary guise, neo-extractivism fails to substantially change the current structure of accumulation and move away from a productivist appropriation of nature and extractivist policies remain hegemonic in the region while the lingering and persistent problems associated with previous imperialist policies prevail. Veltmeyer and Petras argue that in opting for the resource development strategy progressive governments have done little more than strike a better deal with 'the agents of global extractive capital in a coincidence of economic interests: to share the spoils (windfall profits and enhanced claims on ground rent)'.³³ Consequently, the capitalist state remains 'at the centre of the system in its active support of extractive capital – in paving the way for the operations of extractive capital and backing up these operations with the power at its disposal'.³⁴ Although it was hoped that the rise of progressive governments in Latin America would lead to a transition away from extractivist activities towards a more sustainable type of development, these governments have

in fact continued to maintain classic extractivism, albeit with a progressive twist. They have replaced the old extractivist discourse that pointed towards exports or the world market with one that points to globalisation and competition.³⁵ Moreover, the current focus on developing large-scale, export-oriented extractive projects in the region has enabled both 'progressive governments that question the neoliberal consensus and other governments that continue a conservative political agenda within the neoliberal framework' to co-exist.³⁶

Ecuador and Bolivia in particular have been drawn into debates over extractivism because of their adoption of the *Buen Vivir* [live well] concept and unique inclusion and acknowledgement of the rights of nature and mother earth in their constitutions of 2008 and 2009 respectively. The uneasy marriage of extractivism and *Buen Vivir* makes neo-extractivism a particularly contradictory and complex phenomenon. A cognitive and epistemic shift has been advocated over the last two decades or so in order to move away from modernist paradigms and to adopt original epistemological and ontological narratives in which rearticulating the natural environment's role must be paramount.³⁷ The post-development concept of *Buen Vivir* moves beyond traditional Western development theory, based on a narrow set of indicators, transforming the relationship between development policy and social well-being. The theory and practice of *Buen Vivir* presupposes a new set of rights based on plurality and coexistence rather than on dialectical dualities and hierarchies. The *Buen Vivir* paradigm has become an integral part of Latin America's post-neoliberal policy framework and socio-economic transition, driven and articulated by the region's leftist governments and indigenous social movements.³⁸

In Bolivia and Ecuador the concept has gained broad social, cultural and political support. Both states have redefined themselves as plurinational states in a post-colonial context, incorporating *Buen Vivir* principles into their national development plans and new constitutions.³⁹ In Bolivia, *Buen Vivir* represents the state's basic principles and orientation, promoting a pluralistic society's ethical and moral principles. It refers to the Aymara concept of *Suma Qamaña* and to the Guaraní ideas of *ñandereko* [harmonious living], *teko kavi* [the good life], *ivi maraei* [the land without evil] and *qhapaj ñan* [the path to a noble life], emphasising in particular the protection of *Pachamama* [Mother Earth]. The Ecuadorian conceptual framework for *Buen Vivir* differs in that it refers to plural sets of rights based on the indigenous Quechua notion of *sumak kawsay*, which includes the rights to freedom, participation, health, shelter, education, food, as well as the rights of nature, rather than an ethical principle for the state as in the case of Bolivia.⁴⁰ Furthermore, both countries have adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and ratified ILO Convention 169, establishing that indigenous peoples have, among others, the right to free, prior and informed consent, the right to self-determination and self-determined development. These new constitutions and conventions have become a crucial weapon in the struggle against the old elites and also against the very same neo-extractivist governments who supported constitutional reform.⁴¹

While the critique of the growth-based development model has extended so far as to entail a deeper and more comprehensive critique of euro-modernity and modern ontology through *Buen Vivir's* relational ontology, what has proved to be more challenging is the realisation of these ethical and moral principles and plural sets of rights in state practice. First, as in the cases of both Ecuador and Bolivia, the contradictions inherent in the attempts to turn constitutional principles into policy are apparent first and foremost in the abundance of modernist linguistic concepts such as 'growth', 'productivity', 'efficiency' and 'market economy'. In other words, without a clear political project that implements it through effective policies, this new decolonial episteme may remain vague and often problematic.⁴² Second, particularly with regard to the expansion of the hydrocarbon and mining industry

as well as the construction of mega-projects and infrastructure in these countries, clear contradictions exist between the discourse of *Buen Vivir* and the current development agenda. Not only does extractivism violate *Buen Vivir*'s rhetoric of harmonious living between the human and non-human, the rights of nature with regard to existence, maintenance and regeneration of its life cycles, and important equilibriums such as quality of life, democratisation of the state and a focus on biocentric concerns, but it also perpetuates the exclusion–inclusion dichotomy and hierarchical articulations, a logic that has traditionally been associated with hegemonic modernist development paradigms. Third, the deepening and extension of the extractivist development model is hampering the potential articulation of an alternative to extractivism in the region and the application of *Buen Vivir*. Addressing the political economy and changing the productive matrix is the most urgent challenge facing *Buen Vivir* today. A post-extractivist strategy is imperative to halt the acute social and environmental impacts of extractivism, address the high propensity for conflict that surrounds extractivist activities, prevent resource depletion and deal with the global ecological crisis and climate change by using nature in a rational and sustainable manner.⁴³

Although the policy of extractivism under the new left governments of Latin America might be viewed as more progressive than previous forms of extraction, say in relation to the distribution of economic benefits, they still continue to support capitalist production modes through hydrocarbon expansion.⁴⁴ Gudynas argues that the persistence of conventional development is symptomatic of 'how deeply rooted and resistant to change the ideologies of "modernity" and "progress" are in our culture'.⁴⁵ Conventional extractivism and progressive neo-extractivism share key aspects in common such as 'the appropriation of nature to feed economic growth, and the idea of development understood as an ongoing, linear process of material progress'.⁴⁶ Therefore, any alternative to development must deal with extractivism and promote a post-extractivist agenda that will break and overcome dependency, an idea that has been dismissed by critics as impossible or naive. This does not suggest a ban on all extractive industries but rather a massive decrease whereby the only industries left operating are those that are essential, directly linked to national and regional economic chains, and meet social and environmental conditions. To reach this stage, economies must transition immediately from 'predatory extractivism' to 'sensible extractivism', where industries fully comply with social and environmental laws and are rigorously controlled, and finally to 'indispensable extractions' where only essential industries remain.⁴⁷ Furthermore, if the transition to post-extractivism is considered within the *Buen Vivir* framework, the process of change must meet two critical conditions: (1) poverty eradication and; (2) prevention of new losses of biodiversity. This would involve considering both environmental limits and quality of life when considering the use natural resources in the production matrix and reducing over-consumption, which contributes to poverty levels and environmental problems.⁴⁸ These two critical conditions are also central to the aspects of the post-2015 UN sustainable development agenda, though it too assumes economic growth is a must.⁴⁹

Human rights, rights of nature and the environment

As the global boom in commodities prices led Latin American governments to pursue extractive industry growth policies, social movements in the region have increasingly become engaged in the debate on biodiversity conservation and appropriation, as well as in redefining cultural and ethnic identities.⁵⁰ The decentring of euro-modernist perspectives has contributed to strengthening ethnic politics in the region in relation to ecology and environmentalism, and opened up critical new political spaces allowing for the expression

of indigenous knowledge, traditions and cultural identity which had previously been oppressed,⁵¹ laying the foundations of today's social and environmental struggles. Social movements in the region are increasingly questioning the epistemological frameworks based on a dialectic system of inclusion-exclusion upon which the developmentalist socio-economic model is based. The struggle over the expansion of the extractivist and neo-extractivist development models, the absence of participatory democracy, and the criminalisation of resistance have led to the rupture between the state and social movements. In countries such as Ecuador and Bolivia with the construction of the political agency of indigeneity, the state and indigenous movements have reached a critical impasse. Environmental discourses are intrinsic to indigenous cosmologies so any new political and social ecology based on alternative cosmologies rejects the modern one.

Environmental protection remains one of the most challenging issues of international law in the twenty-first century.⁵² However, as a consequence of the broadening of economic and social rights to incorporate elements of environmental protection, evident in rights treaties such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic and Social and Cultural Rights (ICESCR), and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the idea that people are entitled to the right to a decent environment has gained traction over recent years.⁵³ While it is increasingly recognised within international law that environmental degradation can deprive human rights, such as the right to health, which is determinant of a wide range of factors associated with the environment, and that 'mere recognition of such deprivations is not enough to promote and secure a healthy environment',⁵⁴ a non-derivative human right to the environment has yet to be recognised.⁵⁵ Furthermore, new visions for the relationship between human rights and the environment have not been explored within the UN system.⁵⁶ Instead, in the last two decades, human rights law has undergone a rapid greening, whereby the focus has been on reinterpreting universally recognised rights. There has been a convergence between human rights and environmental protection whereby environmental integrity is being recast as a mechanism of enforcement of human rights, 'functioning as *sine qua non* conditions of existence for the realisation of much of the human rights agenda'.⁵⁷ Consequently, three theoretical approaches to the relationship between human rights and the environment have emerged. First, the environment is seen as a precondition to the enjoyment of human rights. Second, human rights can be used as a tool to address environmental issues from both a procedural and substantive stance and lastly, human rights and the environment have increasingly been grouped together as the conditions for sustainable development.⁵⁸

The enjoyment of economic and social human rights, such as the right to life, water, health, personal security, an adequate standard of living, tenure and resource rights and self-determination, and environmental protection are explicitly and implicitly interrelated. However, equally important in the environmental context are civil, political and procedural rights that promote access to courts and the justice system, the ability to protest and the capacity to obtain information. Gearty argues that given their central role in human rights law, civil and political rights tend to be more open to legal avenues than others. This has allowed activists 'to smuggle their true goals into law cases camouflaged as traditional legal actions concerned only with civil rights'.⁵⁹ Although the linkage between the environment and human rights was recognised internationally at the Stockholm Declaration of the United Nations Conference on the Human Environment in 1972 and later at the Rio Declaration on Environment and Development in 1992, the current global ecological crisis has led to a resurgence in interest in the connection between human rights and the environment. Most recently, human rights have featured prominently

in the 2030 Agenda for Sustainable Development, with human rights, if not explicitly then implicitly, at the core of the 17 sustainable development goals and 169 targets. Moreover, the 2015 Paris Agreement on Climate Change marked a watershed moment with the preamble to the agreement referencing human rights and states' obligations to respect, promote and consider their respective obligations on human rights when taking action to address climate change, marking the first such reference in a multilateral environmental agreement. The UN Special Rapporteur on Human Rights and the Environment, John Knox, underlined the importance of human rights at the Paris Climate Conference, reminding parties that 'States' human rights obligations also encompass climate change', urging them to adopt a rights perspective in tackling environmental issues.⁶⁰

Although, the connection between human rights and the environment has been recognised for some years, it is only recently that activities that harm the environment, human and non-human life, as well as the planet itself, have been thought of 'as activities that might be considered criminal or at least seriously harmful with intergenerational consequences and transnational impacts'.⁶¹ Examples of environmental harm and crime have been organised into two categories and classified as either resulting directly from the destruction and degradation of the earth's resources (primary) or as being symbiotic with or dependent upon such destruction, and efforts made to regulate or prevent it (secondary).⁶² The development of a green perspective in criminology has played a critical role in rethinking human legal systems and developing alternative 'benchmarks' to legal definitions of crime, including, human rights abuses and social harm as advocated by Potter, and Raftopoulos and Short.⁶³ As Cullinan observed, 'a primary cause of environmental destruction is the fact that current legal systems are designed to perpetuate human domination of nature instead of fostering mutually beneficial relationships between human and other members of the earth community'.⁶⁴ This has resulted in the plundering of the Earth's resources through activities such as extractivism and environmental degradation and destruction. Current legal systems based on the belief that 'humans are separate from and superior to all other members of the community, and that the primary role of Earth is to serve as "natural resources" for humans to consume'⁶⁵ are failing to protect the non-human world and are perpetuating an exploitative relationship by defining the Earth's natural resources as property.⁶⁶ This has promoted calls to develop a new jurisprudence for the Earth, whereby legal systems 'take an evolutionary leap forward by recognising legally enforceable rights for nature and other-than-human beings'⁶⁷ and a proposal to the UN Law Commission in 2010 for an international law of Ecocide that would recognise human-caused environmental damage and degradation as a crime against international peace.⁶⁸

The failure of current legal systems and environmental laws to protect both humans and the non-human world has led to one of the most important developments in the environmental rights revolution; the questioning of Western liberal approaches to human rights and the incorporation of intercultural perspectives which expands the notion of human dignity. Santos argues that this pragmatic transition in human rights is occurring because 'our time is witnessing the final crisis of the hegemony of the socio-cultural paradigm of western modernity', spread throughout the world through colonialism and imperialism⁶⁹ and epistemicide.⁷⁰ Hegemonic political thinking has reduced 'the understanding of the world to the western understanding of the world, thus ignoring or trivialising decisive cultural and political experiences and initiatives in the countries in the global South'.⁷¹ Hence, conventional human rights conceptions have historically lacked the theoretical and analytical tools to be compatible with and useful to movements of resistance that reflect alternative ideologies and contradict the liberal idea of the universality of human rights or that question

the notion that human nature is individualistic, self-sustaining and fundamentally different from non-human nature.⁷² As Gionolla comments, ‘in terms of their relationship to the environment, mainstream human rights approaches construct the protection of the environment as being an implication of the protection of human beings’.⁷³ Indigenous movements in Latin America have played a critical role in moving environmental protection up the human rights agenda. Furthermore, they have led the transition towards a new approach to human rights built upon alternative cosmologies that offer an alternative conception of human dignity to the Western notion, whereby nature has inalienable rights and the false dichotomy of humans being separate and superior to the non-human world is rejected. Recognition of ‘rights of nature’ in countries like Bolivia and Ecuador represents a transition away from euro-modernist human rights discourses and is reflective of the ‘epistemic turn’ that has occurred in both the methodology and practice of critical thought in Latin America since the late 1990s. This epistemic turn questions both the historical as well as the theoretical legacy of modernist categories and led to the adoption of original epistemological and ontological narratives. Yet despite incorporating the notion of living in harmony with nature into their national constitutions and granting nature inalienable rights, Ecuador and Bolivia, are still struggling to overcome the legacy of modernist development paradigms continually reinforced by the state.

The Commodity Consensus has led to a new cycle of protests that look to transcend traditional ideological and class divisions and unite around the negative impact of extractive industries, notions of development, territorial sovereignty and the defence of the commons and biodiversity. However, as the articles in this special edition demonstrate, with the state as a guardian of both human and environmental rights, these rights remain fragile due to states’ continued and active support of extractivist activities. Although it has long been recognised that it is states’ responsibility to protect and promote human rights in their territories, they also have a duty to adopt an appropriate and effective regulatory framework in order to prevent human rights abuses. While human rights may have been strengthened on an international level, they can only be realised if individual states guarantee and enforce human rights agreements domestically. States have an obligation to monitor and supervise extraction, exploitation and development activities, guarantee mechanisms of effective participation and access to information, prevent illegal activities and forms of violence, as well as guarantee access to justice through investigation, punishment and adequate reparations for violations of human rights committed under these circumstances.⁷⁴ Yet, because of Latin American governments’ commitment to pursuing and intensifying extractivism, the role of the state is focused not on acting as a guarantor of human rights but rather on protecting and facilitating their own economic interests. As Veltmeyer and Petras remark:

Because of the coincidence of economic interests between the state and capital (resource rents for the governments, profits for the companies), governments in the region – even those oriented towards a policy of anti-imperialist capital, and in any conflict between the company and the communities directly affected by the operations of extractive capital these governments tend to side with capital against the communities.⁷⁵

The self-serving nature of the state has severely impacted on the ability of human rights discourses to curb and combat environmental degradation in Latin America. Governments throughout the continent have taken steps to limit the effects of social mobilisation against extractivism by introducing measures to limit their economic, social, political and civil rights such as to participate in decision-making, acquire information, freedom of expression, and freedom of assembly. A new report by ARTICLE 19, CIEL, and

Vermont Law School, criticised Latin American states for the increasing criminalisation of protests, and the use of the law, such as anti-terrorism legislation and libel threats, to quell dissent against extractivist activities.⁷⁶ In Peru, authorities have increased penalties for committing a public order offence, made it easier for the military to intervene in social-environmental conflicts, and supported impunity for official abuses. Ecuadorian authorities have limited the right to freedom of assembly by requiring protest organisers to gain permission from the municipality and police superintendent to hold a protest and criminalising through imprisonment or fines demonstration leaders without the relevant paperwork. Moreover, in Bolivia, government officials now have the power to dissolve any nongovernmental organisations without using any judicial process.⁷⁷

Despite the adoption of the UN resolution requiring states to ensure the rights and safety of human rights defenders, it has become increasingly clear that states are not doing enough to protect those lives at risk from harassment and violence and to bring those responsible to justice. In many cases the state or security forces are perpetuating violence against those groups opposed to natural resource extraction. Moreover, little is being done to protect marginalised and vulnerable communities whose livelihoods, cultures and identities are susceptible to environmental and social consequences of extractivism and also to protect the environment from further harm and degradation. As the contributions indicate, environment protection, the rights of nature and human rights are continuously sidelined in the name of economic development, even in those countries with a more progressive development agenda. However, while the application of human rights discourses has yielded limited concrete results, human rights have provided a 'language of protest' and a 'platform for change'⁷⁸ for those communities and social movements struggling against the expansion of extractivist activities in Latin America. The use of human rights has become an important means of exposing both the ecological and social destruction that accompanies many extractivist projects and has ultimately broadened the frame of both action and discourse surrounding socio-environmental conflicts while simultaneously increasing the attention focused on human rights and the rights of nature. As the recent groundbreaking case of the Embera Chamí people of the indigenous Resguardo Cañamomo Lomapieta in western Colombia demonstrates, human rights discourses offer hope and a reason to remain optimistic. In February 2017, the Colombian Constitutional Court granted the petition for the protection of constitutional rights requested by the Embera Chamí people and ordered their lands to be delimited and titled within one year, during which time all further permits or formalisation of mining activities must be suspended. Furthermore, any subsequent mining activities may only proceed with the full cooperation and consent of the Resguardo.⁷⁹

Social-environmental conflicts in Latin America

This special issue of the *International Journal of Human Rights* focuses on the issues of global environmental injustice and human rights violations and explores the scope and limits of the potential of human rights to influence environmental justice. It offers a multidisciplinary perspective on contemporary development discussions, analysing some of the crucial challenges, contradictions and promises within current environmental and human rights practices in Latin America. Taking a multi-level perspective that links the local, national, regional and transnational levels of inquiry, each contribution approaches questions concerned with human rights and environmental justice from a variety of theoretical and methodological viewpoints. The contributors examine how the extraction and exploitation of natural resources and the further commodification of nature have affected local

communities in the region and how these policies have impacted on the promotion and protection of human rights as communities struggle to defend their rights and territories. Bringing together scholars from diverse disciplines such as sociology, political science, anthropology and social science, this special issue analyses the emergence of transnational activism in the context of collective action organised around socio-environmental conflicts, the infringement of basic human rights and the emergence of alternative and sometimes conflicting development models. Furthermore, it critically discusses why governments are often willing to override their commitments to sustainability and human rights to promote their development agenda.

Joanna Morley in her article “... Beggars sitting on a sack of gold”: Oil exploration in the Ecuadorian Amazon as *buen vivir* and sustainable development’ analyses the tensions within *Buen Vivir*, an innovative interpretation of the concept of sustainable development, by examining the practice of human rights in socio-environmental conflicts in Ecuador. Morley argues that the contradictions that exist between the rhetoric of *Buen Vivir* and President Correa’s neo-extractivist development agenda mirror those that exist within the rhetoric of social inclusion, environmental protection and sustainable economic growth found in Agenda 2030. Moreover, the expansion of extractivist activities in Ecuador reflects the pragmatic arguments that to be effective and politically acceptable, development and environmental approaches must develop strategies that work with the economic interest mechanism of the neoliberal framework of industrialised countries. Morely questions whether a sustainable development agenda that seeks to decouple economic growth from development and in which economic, social and environment development are viewed as equal is feasible in the current neoliberal model of global governance. Examining oil exploration in the southern Ecuadorian Amazon, she discusses how the Ecuadorian state, despite having passed a progressive constitution and promoting a development model that has the potential to be a realistic alternative to neoliberal capitalism, is willing to override and marginalise the rights of their traditional supporters in order to pursue economic growth.

Radosław Powęska in his article ‘State-led extractivism and the frustration of indigenous self-determined development: lessons from Bolivia’, discusses the incorporation of indigenous rights and the problems associated with their genuine implementation in Bolivia in the context of state-led extractivism. Powęska questions to what extent those human rights can be an effective tool against extractive enterprises harmful to the interests of indigenous peoples, as well as the very relationship between extractivism and the employment of human rights in Bolivia. He analyses the role of the character of the state and other related internal factors impacting on the viability of indigenous rights related to self-determination and development, focusing in particular on the political culture and historically developed state–society relations, based upon and reflecting the asymmetries of power and inequalities. Powęska begins discussing the paradox of the rhetoric of human rights, in that although indigenous rights are being strengthened through international activism on the global level, their implementation strictly depends on local circumstances. Questioning the authenticity of its pro-indigenous agenda, he argues that the Bolivian state fails to protect indigenous rights despite its promises and indeed promotes extractivism instead, because of the central role of resource exploitation in generation of rents that fuel paternalist–clientelist state–society relations and help to reproduce power structures. Furthermore, the imposition of extractivist-based development on indigenous communities is a negation of their right to self-determination and indigenous rights and the indigenous agenda in Bolivia is being deformed and manipulated by the state.

Taking a political economy perspective on the extractive dilemma in Bolivia, Rickard Lalander in his article 'Ethnic rights and the dilemma of extractive development in plurinational Bolivia' examines the tensions between ethically defined rights in relation to broader human rights in terms of values and norms related to welfare. The article contributes to debates on contentious resource governance and the relationship, contradictions and tensions between class and ethnicity amid Bolivian identity politics and the question of indigeneity. Lalander argues that despite the Bolivian Constitution of 2009 being one of the most radical in the world with regard to the incorporation and recognition of human rights and indigenous rights, in practice, class-based human rights tend to be superior to those ethically defined because of the extractive development dilemma. He examines both the complex identity politics of Bolivian indigeneity and the extractive dilemma of Evo Morales' government, in particular, the discourse and moral justification for the implementation of extractive politics and how these discourses and justifications relate to the identitarian elements of class and/or identity. Using the TIPNIS conflict as a case study, Lalander illustrates the contradictions that exist between indigenous rights claims and state practices, such as those indigenous rights reinforced in the 2009 Constitution which continually clash with the rights of the nation state to extract and commercialise natural resources.

Marieke Riethof in her article 'The international human rights discourse as a strategic focus in socio-environmental conflicts: the case of hydro-electric dams in Brazil' discusses how human rights discourses have become a powerful moral and political resource to critique the social impact of Brazil's development agenda. Riethof examines the mobilisation of human rights campaigns against hydro-electric dams and argues that the symbolic and legal power of human rights has allowed activists to challenge official accounts of the impact of dams on communities and the environment while deploying domestic and international legal frameworks. Anti-dam mobilisations have used human rights as a platform to highlight the discrepancies between Brazil's ambitions for global leadership within the arenas of environmental sustainability and human rights, and the domestic realities. However, although dam construction sites in Brazil have become significant sites of contestation and activists have channelled human rights discourses, the politicisation of natural resources has severely limited the space for opposition to be heard and the effectiveness of anti-dam mobilisations. Riethof concludes that while the power of the national development discourse in Brazil has restricted the debate on procedural and substantive issues, the employment of international human rights discourses and legal strategies, while unable to halt dam construction, have been able to exert political pressure on the government in a polarised context.

John-Andrew McNeish, in his article 'Extracting justice? Colombia's commitment to mining and energy as a foundation for peace', considers the idea that natural resource extraction can pay for peace and justice. Extraction has been advanced as a vital source of funding to cover the costs of an eventual peace and continued economic development, so the Colombian state has taken a number of steps in recent years to ease and simplify the environmental licences in order to further develop the mining and energy sector and crack down on illegal extractive installations. In doing so, the Colombian state has deliberately flouted constitutionally founded principles that support popular sovereignty and local democratic governance of the environment. Efforts to halt the expansion of natural resource extraction have been met by state-led violence and the abuse of human rights. McNeish argues that the idea that the extractive sector will represent a route to justice is extremely flawed and the insecurities caused by the extractive economy will continue into the post-conflict period. Moreover, the expansion of natural resource extraction has

fuelled the mutation of the armed conflict, which is now as much about oil and minerals as it is about land, political ideology and coca production, resulting in more economic uncertainty, the largest internally displaced population in the world and the mass abuse of human rights. Therefore, even with the signing of the Peace Accords, the current legal and socio-economic dynamic indicate that much of the violence linked to natural resource extraction will continue into the foreseeable future, increasing insecurities and initiating a new phase of human rights violations.

Extractivism and human rights: new engagements

It has become increasingly apparent that the Commodity Consensus model and the large-scale export of primary products in Latin America have advanced in recent years in a context of increasing violence and have impacted enormously on the promotion and protection of human rights. As a consequence of this new cycle of protests in the region, the environment has emerged as a new political battleground for human rights, and along with it, the urgent need to carry out more research on the relationship between human rights, extractivism and the environment. As Bebbington acknowledged, the academic world was caught by surprise by the speed and scale of the commodity boom in Latin America, leaving academics to play 'catch-up'.⁸⁰ However, in recent years, research into extractivism has gathered pace. As demonstrated in this opening contribution, the explosion of social-environmental conflicts that have accompanied the growth and diversification of extractivist activities has posed a challenge to the political and economic ontology of current development models and opened up debates about nature and the relationship between the human and non-human world. Moreover, it has raised questions over Western approaches to human rights and led the transition towards de-colonial approaches to human rights built upon alternative cosmologies and intercultural perspectives, whereby nature has inalienable rights. Consequently, there are a number of emerging themes that warrant further attention. Further research into how transnational human and environmental rights advocacy networks are shaping the meaning and possibility of human rights discourses, de-colonial approaches to human rights and methodologies in Latin America, the adoption of human rights discourses in different social and cultural contexts and legal systems and also gendered impacts of extractivism and the role of women in social-environmental conflicts could provide valuable new insights into the merits of extractivism as a development strategy. It is hoped that this special edition will not only synthesise current work on human rights and extractivism in Latin America but also encourage more multidisciplinary research into the topic, broadening the analytical base of debates on extractivism, help foster a new relationship between humans and nature and change the way we conceive the environment.

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