

# Consultation's overburden: Indigenous participation in the extractives industry in the Salar de Atacama, Chile

## AUTHOR BIO

Sally Babidge is an anthropologist who works with Indigenous Peoples in Chile and Australia. Her research examines ecological relations, ethics, water and extractivism, and the politics of recognition. She is based at the School of Social Science, University of Queensland and has held visiting positions at the Centre for Intercultural and Indigenous Research (Chile) and the Universidad Católica del Norte (Chile).

Sally Babidge

## ABSTRACT

Mineral extraction landscapes are infamous for their histories of spectacular ecological destruction and corporate-Indigenous community conflict. In contrast, until recently mining company activity and Indigenous community responses in the Salar de Atacama, northern Chile, have been marked by a somewhat mundane political and environmental dynamic characterised by invisible, shifting and short-term benefits for locals and unspectacular contests. However, the effects of extractive industries are cumulative and complex. In this paper, I examine the operation of relatively new Chilean regulation relating to environmental and social impact of mining that includes obligatory consultation between proponents and Indigenous peoples. Relying on new regulation, Indigenous people have expanded their repertoire of response to mining, refusing extractive development's proffered benefits and entering negotiation with powerful outsiders on better terms, but there are also social costs. Using the critical terms of community leaders who protested about the "overburden" of new projects mounting up in consultation with proponents, I examine the structural and temporal problems generated by new regulatory process. Through ethnographic material derived from engaged anthropology, I show how community administrative and political labour to respond to the technical processes of consultation is at once mundane and exhausting. I argue that community work to consider and respond to proposed extractivist projects "exceeds" the progressive politics of recognition and new Chilean regulatory frameworks of consultation and left unaddressed, generates additional negative effects. I suggest that regulatory processes regarding the social impact of extractive industry should take seriously the implications of overburden.

## KEYWORDS

Overburden, Social Impacts of Mining, Recognition of Indigenous Peoples, Chile

## Introduction

In late 2017, the leaders of an Indigenous Community in the Salar de Atacama, northern Chile, lodged a formal complaint with the Regional Environment Assessment office regarding the impact of extractive development assessment and consultation pressures. Their letter explicitly requested that the government authority address the “project overburden” (“*sobrecarga de proyectos*”) in their territory. Their complaint drew attention to the fact that the process of community consultation itself was having a negative impact. Atacameño (*Likan Antai*) Indigenous peoples have a long history in the mining industry throughout the region. Following industrialisation of the Salar de Atacama area beginning in the mid-1980s, Atacameño community members have engaged in mining and extractive capitalism as paid surveyors of the territory for extractive interests, have been employed as mine labour, plant workers, and run businesses as contractors and hospitality (service industry) operators. Recently, Indigenous community leaders have begun to build a regional movement characterised by protest against extractive operations, have won an injunction against a new mine, entered into an historic legal agreement for “development benefits” with one lithium company, blockaded the service roads of another, and reconsidered long term agreements with a copper industry multinational. During this time, Chilean environmental protection legislation and parallel legal instruments of recognition of the rights of Indigenous peoples to be consulted over “development” have come into force in new ways. In 2010, Michele Bachelet’s progressive government introduced a law (Ley 20.417) associated with Chile’s ratification of Convention 169 of the International Labour Organisation relating to Indigenous self-determination and participation in governance. The new law effected the creation of institutional structures for regulating environmental impacts of industrial development such as the Environment Ministry (Ministerio de Medio Ambiente, MMA) and the Environmental Assessment Agency (Servicio de Evaluación Ambiental, SEA). With these new laws and associated institutions, a regulatory structure formed around the processes by which Indigenous communities, citizens, the state and corporate actors must interact in the process of industrial development. In 2012, Environment Tribunals were established (under Law 20.600) which enabled regional courts to intervene in extractive and industrial development decisions and would have seats in the north, central and far south regions of the country. Significantly for the communities of the Salar de Atacama, it was not until 2017 that the regional Antofagasta Environment Tribunal opened. Across those five years or so, the coming into being of environmental regulations through SEA meant that social and environmental impact assessment began to be institutionalised into a regional government structure. While environmental and social impact regulations that include consultation with Indigenous peoples are welcomed by many who experience the effects of industrial extraction, regulatory processes bring their own effects.

Rob Nixon’s concept “slow violence” entreated us to see beyond the multiple global crises and spectacular environmental violence and to turn our attention to the slow-moving harms wearing down ecologies and peoples. With the concept of slow violence, he argued that there are temporal dimensions of harm in the structural inequalities that go unnoticed given the “contemporary

politics of speed” of hyper-industrialised and hyper-technological societies. Such effects, driven in increments by powerful actors “imperceptibly” (p10) erode the lives of poor and Indigenous peoples where the effects are systematic, remote from view or cast as part of the normal social order. Nixon’s characterisation of the slow violence relative to Indigenous peoples draws in one sense on the gradual ways in which inequalities operate as harmful as well as how particularly late modern temporal dynamics may render people more unequal. The pace of change (the hyper-industrial, hyper technological) is, Nixon posits, anathema to Indigenous peoples’ temporal frames, thus explaining an “exponential upsurge in Indigenous resource rebellions across the globe during the high age of neoliberalism,” particularly in the drive for short term wealth (industrials) versus long term visions of life in place (Indigenous) (p17). The “Indigenous person” in Nixon’s argument relies on a chronotope of Indigenous peoples as tradition-driven and necessarily associated with the past (cf. Povinelli). In contrast with such casting, many Indigenous peoples are at home in mining economies and are engaged in the hyper-industrialised conditions of life on their doorstep. This is particularly the case in the Salar de Atacama, northern Chile. Here, people may indeed engage in rebellious activity against the mining industry, but there are multifaceted reasons why they may assent to or refuse to engage in or negotiate deals with extractive capitalism where those courses of action are available to them. While Nixon’s characterisation of Indigenous peoples appears generalised, in this paper I draw on his ideas about the ways in which structural inequalities may be embedded in the temporal to analyse the systematic and unspectacular dimensions of extractive industry harms.

Growing public and global interest regarding the risk of environmental and social harms from industrial development and extraction activities has seen industry become aware that the economic activity of industry itself may be hindered either through reputational effects from shareholders, resistance of local populations, compensation, or restitution expenses. Studies of the impacts of development by developers, especially in relation to the environmental, social and cultural effects of the extractive industry, have been undertaken since at least the mid 20<sup>th</sup> century (Burdge & Vanclay). Led by the World Bank’s (1986) policy decision to include predictive studies of social and environmental impacts as part of new project evaluations, such studies have become a feature of global corporate activity (Burdge and Vanclay 64, see also Esteves et. al.). Some of the biggest actors in the multinational extractives industry led developments in environmental and social risk assessment, “best practice” measures and other forms of business impact audits, in attempts to both reduce the potential harms of extractive activity, as well as manage the public perception of inevitable harm from mining activity (Franks).

The recognition of the rights of Indigenous peoples to be consulted by developers and states on impacts to lands, territories and waters has meant that Indigenous rebellions against the extractive industries are only one of a range of tactics available to communities, and for many, the least attractive. With the promise of development – in the form of financial and infrastructure support for communities in exchange for community acquiescence to extractive activity – extractors and the state invite Indigenous groups to participate in the process of extracting wealth from their territories. These processes often

become inscrutable to other parties (O’Faircheallaigh). Where geographers have argued that extractives operate through “accumulation by dispossession” (Harvey), Indigenous rights mechanisms that operate at the National level and which have their impulses in global conventions, may enable “accumulation by juridification” (Goodale, 440), a process of symbolic recognition of indigenous rights in which extractive activity is enabled. Goodale argues that the “dark” side of recognition politics and its practice is thus twofold. The extractive industries have creatively adapted their practices of extraction to rights frameworks and Indigenous peoples have been drawn into responses to transnational capital chiefly as “symbolic-political” contests (around rights struggles), which are fought to the detriment of environmental, economic and political campaigns to address systemic inequality. In the Salar de Atacama, northern Chile, the extractive industries have actively used such tactics and others to reproduce the ways in which its environmental and social effects may be undetected (Babidge; Babidge et al.). Environmental and social effects of industry are partly obscured from scientific or regulatory attention because some relations between extractors and Indigenous communities are closed; covered by legal agreement between the parties over the terms of consultation or mitigation for impact. As Goodale has argued, in the age of neoliberalism, transnational capital, particularly extractive capital, has thus worked “not against, but with, policies of Indigenous rights” (441, see also Kirsch, and Latta & Cid Aguayo on this for Chile). Critical work has begun to identify the ways in which processes such as risk assessments and social and environmental impact reporting have their own burdens of incorporation into extractive processes and effects (Barandiarán).

How do processes of regulation and recognition, in which Indigenous participation in extractive development is formalised and technical, produce their own burdensome extractive effects? In a critical study of social impact assessment for a mine in a salmon-producing region of Alaska, Karen Hébert argues that the process enables community participation in the production of knowledge about the impacts of industrial development while also necessarily delimiting the “political possibilities” of those actors (110-111). She uses the term “overflow” to refer to “unforeseen effects that expose the limitations of existing institutions and frameworks” (110) and focusses on how such constraints generate certain socio-political dynamics. Similarly, in this paper I am interested in the “excess” around the introduction of regulatory process, in the sense that there are effects that are generated by the regulatory process itself but are not dealt with by the mechanisms of the process. In principle, Indigenous community leaders in this area have indicated that they welcome consultation processes by extraction companies over, for example, new mining projects, expansion of existing mining operations, or changes to groundwater extraction activities, but participation in these have become, as in the words of one community’s leaders cited above, so burdensome that they may exhaust the limits of community capacity to respond. In a mining context, the overburden (in Spanish it is the same word, *sobrecarga*) is the covering of material (soil, rock, water) that lies above a mineral deposit or other resource to be extracted. Overburden is piled aside in order to facilitate the targeting of the main subject of extraction. In this paper, I rely on the critical-analytical term introduced by the community leaders in their letter to the regulator and suggest that “overburden” is an apt metaphor for the surplus labour

undertaken by communities in order to respond to technical systems that is at once mundane and exhausting.

[1] The research gained ethical clearance from the University of Queensland, and annual or bi-annual visits to the community and region have been undertaken 2010-2019, accumulating to a total of around 15 months of participant observation and over 70 recorded interviews with people in Peine, neighbouring communities and with mining company employees. My arrangement with the community of Peine for ongoing ethnographic research in their community (visits, specific project work and interviews, academic publications) is to undertake reporting to a full community assembly whenever I am present there about studies I have completed, work I seek to publish and what is ongoing. Thus, authorisation to continue to visit and publish is an ongoing negotiation. Copies of publications are lodged with the office of the Community leaders (who are elected annually) in full translation, or plain language Spanish summary.

This paper draws on long term anthropological inquiry and engaged anthropological work, meaning work that is directly requested by or is undertaken in collaboration with fieldwork interlocutors in order to seek some political outcome (Kirsch *Engaged Anthropology*, see also Low & Engle Merry). I began undertaking academic research in the area of the Salar de Atacama in 2010, focussing on negotiations between Indigenous communities and extraction companies. [1] In recent years, relationships between communities and companies have changed with an Indigenous movement rising up in parallel with increasing numbers of extractivist projects entering the Salar de Atacama and the strengthening of national regulatory legislation. As these movements have formed, extractive activity has grown and the legislative landscape has shifted, and I have responded to requests from the Peine Indigenous Community leaders, and when requested, collaborated in critical evaluations of the industry's effects. In making the words of the community declaration of "overburden" central to this paper and reflecting on it as a metaphor, my intention is to acknowledge my interlocutors as critical commentators on their own engagement in the exercise of consultation and the limits of the process. Their critique of the technical and administrative processes they faced and their responses to it revealed to me how the meetings, deliberations, paperwork, administrative correspondence and reports pose particular kinds of structural and temporal problems and generate negative social effects.

I begin by outlining how in relation to the focus on the Indigenous Community of Peine, the introduction of progressive legislation in terms of processes of consultation and participation in the regulation of extractive industries, may be understood in terms of overburden. I then detail two short case studies that reveal the particular difficulties of the temporal and structural demands of the consultation process.

### **Progressive legislation and its effects**

When I first visited Peine in 2009, one of a number of Atacameño (*Likan Antai*) communities on the eastern side of the Salar de Atacama (Atacama salt pan), I began asking people about their experience of dealing with all the different extractive operations in their territory. At that time, there were four main operations. Two lithium salts extractors operated on the salt pan itself. Subsequently a small operation in the far south then referred to as Sociedad Chilena de Litio (later Rockwood Lithium, now Albermarle), was the first to extract lithium salts in the area, beginning in the mid 1980s. To its north, Sociedad Química y Minera (SQM) began an extensive operation of extracting nitrates and lithium and other chemicals from the salt pan's surface from the early 1990s. In the mountain range to the south of the salt pan are two copper mines, one, Minera Escondida Limitada (MEL), operated by global giant BHP, and the other Compañía Minera Zaldívar (CMZ), now operated by Antofagasta Minerals. Both also began water extraction south of the Salar and mining in the early 1990s. The copper mines themselves are invisible to

Indigenous communities dotted along the eastern fringe of the Atacama salt pan, but their freshwater extraction from subterranean aquifers includes a zone of impact around the southern end and part of Peine Indigenous Community's pasturelands (an area called Tilopozo).

People from Peine, as well as neighbouring communities Socaire, Camar, Talabre, and Toconao that I spoke to at that time, consistently responded with incredulity to my query about whether anyone consulted them before the mines began. What an idea! The Albermarle lithium mine has employed many men from these communities over its history, especially men from Peine, but the idea that the mines would consult with community members about social and environmental impact before commencing their operations was laughable. Community leaders and others had heard that Chile ratified the International Labour Organisation's Convention 169 on the rights of Indigenous peoples in 2009, but few knew what it would mean for them. Legally, ratification of Convention 169 necessitated a range of amendments to Chilean legislation to make it consistent with the recognition of Indigenous self-determination within the convention, especially in terms of the Indigenous Peoples rights to decide their own priorities in processes of development. In 2010, in an informal interview with a plant manager of the (now) Albermarle lithium mine, I asked him what the company was preparing to do in response to the changes occurring; did he think that they would formalise their relationship with the Peine Indigenous Community and others? He told me, "I don't think anything will change for us." A little over a year later, the company had begun to increase production and alongside this activity, had begun to negotiate a legal agreement over social and environmental impacts with the Indigenous Community of Peine as well as with other communities of the Salar, thereby modernising industrial processes alongside their social impact and performance relationships with surrounding communities.

The majority of Peine's residents are descendants of many generations of Indigenous pastoralists and agriculturalists whose lands stretch out from the far south of the Salar de Atacama and into the Andean cordillera. Since about the mid 20<sup>th</sup> century, Peine had become a small town. The Peine Indigenous Community (the Community) is an organisational entity established in the mid 1990s to hold state recognised territorial rights of Indigenous peoples from Peine, act on behalf of members in regard to these rights, and as a responding entity to external parties in relation to the exercise of Indigenous rights. The Community is responsible for the territorial interests of all Peine residents with Indigenous (Atacameño) ancestry but does not allow non-Indigenous or those Indigenous (to other places) but non-Atacameño residents to be members of the Community. The leadership team (Directiva) of the Indigenous Community of Peine are a president, treasurer, secretary, and two ordinary directors, elected by annual nomination and vote in an assembly of members of the Community, who number around 180. The Directiva are voluntary officers obligated to represent the Community's interests to all outsiders and they are responsible for overseeing all Community business and coming up with new initiatives. However, the President of the Community and their Directiva do not alone make Community decisions and I have witnessed a number of leaders publicly criticised by members of the Community if they are perceived to be doing so. In one case, mounting public criticism of an

elected community President led to a marked non-attendance at Community meetings (Asambleas) by community members (the Asamblea), leading to an inability to progress decision making. An oft-heard phrase in this context, “*la asamblea manda*” or “*el pueblo manda*” (the people are in charge), specifies the moral orientation of local decision making. This fact is an important aspect of the burden of participation in externally driven processes of consultation, as will become clear below.

In late 2017, the Community was being asked to consider and respond to a large number of extractive development proposals. These included consultation processes from industrial extractors in their own territory as well as environmental issues in the broader Salar region. Underscoring the heft of the Chilean lithium industry in global “green energy” sources, proposals to grow extractive activity on the Salar de Atacama were lodged with the Environmental Assessment Agency (SEA) by both existing lithium companies and a proposal for a new lithium mine had appeared. SQM lodged a declaration of environmental impact (DIA) to increase their production to 180,000 tonnes per year, and a similar DIA was lodged by the Albermarle plant in 2016 (who were seeking to increase their production from a modest 4,500 tonnes per year in 1999 to 94,000 tons per year). In addition, a company named “Peine NX-Uno” (owned by a prominent and wealthy Chilean family, Errazurriz) was seeking government environmental approval to establish a new lithium extraction operation on the southern Salar de Atacama. Community leaders in Peine at the time along with members of other communities spoke about their responsibility to protest against the proposed new mine. While the Regional authorities eventually rejected the proposal for the new lithium mine (Peine NX-Uno), SEA found that neither lithium company, SQM nor Albermarle, needed to undertake full community consultation processes for the growth in their operations. The lower bar set for environmental approval (the DIA process, which has no provision for mandatory community consultation regarding social impact) can partly be traced to the fact that the government Indigenous Development Corporation (CONADI) has never progressed the territorial claims by Indigenous communities on the Salar to the Salt flat itself (only their villages and some pastoral territory in the highlands). Moreover, there are few independent scientific studies available on the potential impact of extracting saltwater at the rate of thousands of litres per second from the Atacama saltpan as these industries do, with the companies responsible for reporting on their own environmental impact (see Babidge et al., also Liu et al.). The Peine Community joined with other Atacameño communities in the region to denounce the lithium giant, SQM (in a formal claim against it, as well as collective direct action), because of suspected overexploitation of salt and freshwater from the Salar. SEA nevertheless approved SQM’s Declaration of Environmental Impact. Albermarle negotiated an equity agreement with the Community of Peine in 2012, and with the regional Council of Atacameño Peoples in 2016, providing for annual profit share and a range of other “development benefits” associated with the company’s operations on the Salar. Albermarle gained their SEA approvals to expand production alongside SQM, and local dissatisfaction with their expanded operations has been somewhat muted. While most of the Atacameño public activism related to environmental impacts of the lithium industry is concentrated on SQM, the larger operator and a company without a legal agreement of this kind with

Atacameño communities, reportedly neither SQM nor Albermarle has managed to increase their production of lithium to the levels approved by the SEA (Sherwood).

At the same time as Peine Indigenous Community leaders were undertaking these complex sets of negotiations with and protestation against the lithium industry, a renewable energy company was seeking from them a response to a proposal for an installation of solar panels in Peine's claimed Indigenous territory. In late 2017, I spent some three weeks in the area and in addition to the constant stream of mining company employees and state officials at the Community office, a small group of exploration geologists were also present in the town. They were seeking a meeting with the President and other leaders, and when they were turned away for not having sent a letter of request prior to arriving, were driving around Peine and Tilomonte (the agricultural oasis to the south where people have crops). I was enjoying a day of weeding the fields with one of my hosts and as we stood up to watch these men, she commented gravely that they, like others she had seen before, were seeking someone who would grant them "community consent" to something. And in addition to these activities, three other consultation processes were bearing down on the community; there was as yet no resolution to a proposal by "Minera Delfin" for their proposed copper mine to be built only 7 kilometres due south of Peine, the copper giant MEL had released their Environmental Impact Assessment report, and Peine would need to respond, and in 2018, CMZ would begin seeking consultation on its EIA, also hoping to gain community consent to continue extracting freshwater for copper processing.

Thus, since the changes in law relating to consultation, the Community were increasingly finding themselves needing technical assistance to respond to the demands outlined above. They envisaged being able to employ someone who would work in their interest, who would translate the miner's material to local temporal and technical constraints and boost the capacities of the Directiva to think through the implications of proposed development processes. Using Community funds earned in a benefits agreement with one of the mining companies, a relatively young (many in their 30s) and some professionally educated, group of elected Community leaders employed Alejandro, a local professional in environmental management, from neighbouring Toconao. [2] His work included fielding company and government requests for consultation, monitoring company activity in Community territory, finding professionals to undertake reviews of company Impact reports, working with lawyers, and collating and organising official Community responses to extractive activity. Alejandro undertook preliminary evaluation of new projects, discussed them with the Directiva, and met outsiders to glean a sense of the projects being proposed. Together Alejandro and the Directiva would then be responsible for organising a full Community meeting (Asamblea) to consider a proposal and seek a decision. Any proposed projects, such as those outlined above, implied considerable work. The bare minimum meant that members of the Directiva and Alejandro must compile bureaucratic correspondence, analyse technical reports, and meet with company representatives. Moreover, they must translate these technical matters for the purpose of discussing the material with the Asamblea, since it was there that decisions must be made.

[2] "Alejandro" is a pseudonym. Having "our own professionals" from Peine is central to a sense of internal representation and trust. They have devised scholarships to encourage their own young people to become the professionals the pueblo needs.



A majority of working age men and women in Peine are employed directly by the lithium mines nearby, or through contractors in the lithium mines, or depend on the mining industry for work in associated service businesses. They return home from the plant after dark, or from shift work much later, or run small businesses that cater to miners and their hours of shift work. When not working in the mines, agricultural and domestic labour occupy peoples' hours. To accommodate the way in which the majority of people work, Community meetings are set for 8pm, or just after. This means meetings may stretch long into the evening, sometimes well past midnight. While they may be concerned about the issues, the Asamblea were not always willing to convene more frequently than once a month. They were especially reticent to meet since, increasingly, meeting agendas were dominated by complicated technical reports. Thus, achieving a quorum could be a problem and for the Directiva to reach a decision on some matter sometimes an Asamblea had to be rescheduled. In meetings I attended, members of the Asamblea complained not simply about the number and complexity of technical reports they had to try to understand in one evening after a long day, but also the fact that they felt pressured to make a decision quickly on issues with serious implications on the life and future of the pueblo. Under consistent and increasing demands from the state and extractive capital to respond to consultation according to external timeframes and the Directiva's need to seek a decision from the asamblea for each of these approaches from outsiders, stress on the Community was high. These conditions eventually led to the Community lodging a formal complaint declaring that the government must step in to regulate the development impact of consultation pressures. Their official complaint against SEA explicitly charged the government authority to address the "*sobrecarga de proyectos*," literally, the overburden of projects in this one area.

Two examples may further articulate the structural and temporal excesses of overburden. As will become clear, I have chosen these two examples since I was directly implicated in these cases through engaged work. They demonstrate the limitations of considering Indigenous refusal of mining projects in terms of environmentalism, and the need for political activists and others to see how responses to extraction at the local level occur according to a range of locally driven logics.

### **Saying "No" to Minera Delfin**

Early in 2015, the Peine Indigenous Community agreed to participate in the Process of Consultation of Indigenous Peoples, under Chile's Environmental Law (Ley 19.300), regarding the proposed project "*Planta de Sulfato de Cobre Pentahidratado de Minera Delfin*" (Minera Delfin). The project proposed to construct a copper mine at a distance of 7 kilometres from Peine, using technology that would mean working mostly underground (rather than open cut mines). The SEA had already rejected the project on the basis of deficiencies in its Declaration of Environmental Impact (in 2011). In the course of my fieldwork and since 2010, I observed some four or five meetings between the owners of the mining company and Directiva. I was a witness to attempts by company owners to offer small gifts to individual members of the

Directiva as well as to the Community as a whole in exchange for Community acquiescence. That is, the proponent had been seeking to get their “little project” (investment of only US\$170K) running for some years, first going through a lower level declaration of environmental impact (DIA) and being rejected by the regulator, and then attempting to pass the environmental impact process, all the while pressuring the Community to consent. Local deliberations were sometimes fierce. Small business owners asserted that the whole community would benefit from having a new industrial development nearby, imagining not only a new source of employment for “the *jovenes*” (young people) who might remain in Peine rather than move to the city, but also new customers in their shops, accommodation, catering and other services they offered. The Asamblea were concerned about what a mine so close to their pueblo would do to daily life.

The report of the findings from the consultation, written by a member of the Directiva of Peine at the time and in part explaining why the report was submitted a little later than expected, asserts that “the internal dynamics of the community organisation often *requires time* in ways that don’t fit with the schedule established by the public service” (SEA, emphasis mine). The author of the report told me she wanted the problems of temporal clashes of these processes to register with the government department. The timing of the consultation process for Minera Delfín’s EIA intersected exactly with a changeover in Community leaders, which lasted some months. Once they took office, the new Directiva, working closely with external consultants, devised a process of full community consultation in three stages: broadly, information provision, community analysis through consensus and internal deliberation, and finally, dialogue and agreement. In more than one meeting, the Directiva and Asamblea were provided with detailed written and verbal information about the proposed project by the proponents and SEA. The Directiva made arrangements for 40 members of the Community to take a fieldtrip to the site of the project. They discussed and deliberated the project in every Asamblea during the period, and those running the consultation process (the secretary with external consultants) engaged in door-to-door discussions, ran focus groups, and then had another asamblea to come to a community decision. The Asamblea ultimately resolved to reject the copper mine proposal and to not proceed with the process of consultation. The Directiva then reported the decision to a meeting in the Commission of Environmental Evaluation in Antofagasta. The regional government department upheld the decision of the Community, ruling that the proposed project could not go ahead.

Minera Delfín appealed and the case was subject to national review. In the National Commission meeting in Santiago, with around a dozen members of the Peine Community travelling to Santiago to protest outside the building, Commissioners decided that the Minera Delfín consultation process did not occur according to proper process and ordered the proponent to reengage in consultation with the Community. The Dirigentes, disappointed that their refusal of the proponent had been rejected by the Environment Tribunal, made public announcements to say that they had been quite clear about their decision and refused to meet with the company. In 2018, when two social impact consultants working for the proponent attempted to consult with members of the community many households hoisted black flags on their

houses, and the researchers were refused an audience with the Directiva. Nonetheless, the company went ahead and resubmitted their revised EIA. In December 2018, along with others, I assisted the Directiva in compiling an analysis of the consultants' EIA report. The final outcome has been SEA's rejection of the Minera Delfin project. While only a small project compared to the size of other extractive capital investment and production already occurring in the Salar area, the regulator's finding in favour of the Community decision was an important one, given how rarely mining projects are stopped (COCHILCO).

While most Community members were relieved that Minera Delfin would not go ahead after a long struggle, those who had been involved were exhausted and also faced internal criticism from the exhausted community. Different Directiva members over the years had waded through reams of bureaucratic procedure, each new set of leaders having to begin again in the process, had presented changing and sometimes conflicting technical advice to Asambleas, and eventually garnered majority Community support to campaign against the mine. The length of deliberations and external pressure had amplified internal differences of opinion about what a good response to mining development by the Community really looks like.

### **The MEL EIA**

In 1997, Minera Escondida Limitada (MEL) had gained a 21 year license to extract up to 1,400 l/s of freshwater from a series of wells that tap into subterranean aquifers in the south of the Salar de Atacama in territory claimed by the Peine Indigenous Community. At that time, MEL entered into a legal agreement with the Community in which the company would provide a small quantity of funding as "development benefits" and undertake annual reporting on environmental impact. In 2007, MEL and Peine renegotiated their agreement, around the same time that MEL was seeking to gain environmental approval for a project named "Pampa Colorada," in which it was proposed to extract additional freshwater (over 1,000 litres per second) from high in the mountains above Peine (and neighbours Socaire and Camar). Indigenous Community and broader resistance to MEL's proposal was vocal and widespread, and the environmental regulator in the government also considered that MEL's project represented extractive activity located too close to protected and fragile high altitude wetlands (Yañez; Bolados). Ten years later, MEL released an EIA for its "Proyecto Monturaquí," in which it sought from SEA an extension of its license to extract freshwater from aquifers on the southern end of the Salar de Atacama for another 11 years, though at a lower rate (640 l/s). The MEL EIA is a new and technical stage in a very long and sometimes highly vexed relationship. The EIA *table of contents* is 58 pages long and the report in three volumes is well over 2,000 pages in length (though the social impact section is only 172 pages). The company's EIA reporting strongly downplays the potential impact of the works, emphasising the fact that they were "simply" continuing existing work and at a lower rate of extraction. The Regional Director of SEA ordered (23<sup>rd</sup> August 2017, Resolution) that a period of consultation under conditions of ILO Convention 169 be undertaken.

[3] The environmental impacts of freshwater extraction for mining copper and saltwater extraction for production of lithium have been of concern to the Peine Indigenous Community for a range of cultural, socio-economic and ecological reasons, but largely understudied for decades (Babidge “Sustaining Ignorance”). With the growth of industry and the growth of government regulation, some recent work is beginning to reveal more detail of the impacts (social and environmental) of water extraction (Babidge et al; Liu et al).

[4] Over the years elected leaders considered alternative forms of response since it is not just MEL who want to establish a baseline of indicators in order to undertake these technical assessments of the social impact of extractive activity. Every new project from companies who are seeking to get their EIA through the SEA seeks a “baseline.” I note that my phrase regarding the “control” of community business is a gloss for a deeper set of shifting tactics and internal strategies of the Community that it is not my place to divulge.

The Peine Directiva formally requested (in a meeting 23/08/17) that I put together some comments on MEL’s EIA report, particularly the section that examined social impact (referred to as the “medio humano”). They asked me to write about the reasons why the community would not want this ongoing water extraction approved. [3] They specifically asked me *not* to report on socioeconomic or cultural information regarding the community itself. The manner in which the request was made for my contribution is important. For a number of years (at least since 2011), MEL had repeatedly requested that the Community agree to be subject to the company’s social performance team undertaking a “baseline study.” These studies provide a qualitative and quantitative (statistical) reference point from which impact may be interpreted and are thus considered technically necessary for undertaking an impact assessment (Barandiarán). The Community has consistently refused to grant access to researchers from the company for such a study, despite the company trying many different tactics to undertake such a study. There is a range of reasons why the community has refused access, most prominently a sense of control over community business. [4] The baseline study, as a process of data accumulation and reporting, is not only a temporal imposition on individual people’s and the Directiva’s time, but a potentially threatening external compilation of detailed information and analysis of internal community dynamics. A man deeply involved in the earlier years of the Directiva, told me he felt this community refusal to do a baseline study had been a risky strategy, which “cost us a lot” (“*nos costó harto*”). Partly, the cost had been experienced through divisions created by resistance, and partly tensions were orchestrated by company employees, who had pressured members of the Directiva to do what the Asamblea had rejected. The social impact assessment process associated with new regulation has been accompanied by a proliferation of technical reports about Communities. Members of the Community recognise the technical process by which such matters proceed, and in rejecting the baseline study wield what power they have over the ways in which knowledge may be produced about them. While mundane, any form of refusal can be burdensome, or can “cost” them, since saying no attracts attention and deliberation itself has the potential to give space to internal conflict.

\*\*\*\*\*

In early February 2020, MEL retracted its EIA to continue water extraction in Peine’s territory after regional political currents turned against the company and the community voted overwhelmingly against further negotiations. MEL has now ceased all continental freshwater extraction. However, given long term extraction and tensions caused by company social relations as part of agreement-making, such victories are fragile. Other Salar communities, too, engaged with MEL during the EIA process, agreed to baseline studies and made agreements, sharing in the ambivalent benefits and tensions that the industry provides. Social conflict associated with the activities of the industry were referred to by an elected Indigenous leader in 2018, in a report to a National Commission of Inquiry into matters relating to SQM’s activities on the Salar de Atacama. He stated that:

It seems irresponsible on the part of the government, of the authorities, to keep installing mining projects in an aquifer, in a basin, which, in reality, no-one knows whether the recharge that it has is more or is the same as the level of extraction.... Above everything is the social impact of this. This generates too, divisions in the social fabric of the communities. (Comisión Investigadora Acuerdo Corfo SQM 2018, 25:08 - 25:55 mins)

In the previous year he had spoken to me about these concerns, the pressures of participating in social impact consultation, and the tensions within his community as well as between them and neighbours, while sitting in front of a white board wall calendar for the month of November on which 21 of 30 days was marked with at least one meeting between the Community and a government department or mining company. To “overburden” is, according to the Cambridge Dictionary (online) “to make someone or something work too hard or carry, contain, or deal with too much.” The Community complaint to the regulatory authority about “overburden” that came with multiple extractive projects descending on them at once emphasised the impossibility of good community responses, especially in light of the fact that any consultation process need happen not only with the Directiva but the Asamblea as a whole. Given the inequalities already extant in consultation processes (for example the resources, lawyers, professionals at company versus community disposal), the Community could not engage with the process equitably, and when it did so the result was exhausting and potentially damaging to internal relations. Moreover, this almost daily administrative pressure to respond to requests interfered with simply getting on with life. Consultation activities compete structurally, temporally and intellectually with locals’ own projects designed to address Community defined deficits in wellbeing, education, recreation facilities, water supply, and waste; the daily matters of making a good life.

### **Final comments**

Following my interlocutors’ terms, I have characterised the temporal and structural excesses of the impacts of industrial development on Indigenous communities as “overburden.” These excesses are beyond nominally progressive legislation such as that designed for environmental protection, assessments of social impact, and the recognition of Indigenous rights. Community response to progressive legislation necessitates participation in mundane bureaucratic matters, hours spent at a desk in report analysis, form-filling, and other administrative and technical tasks that are part of the everyday work of any trained professional. However, in many Indigenous communities such as Peine, trained professionals are few and the tasks to be performed exceed that of the bureaucrat. All tasks must be translated to local forms of communication and internal relationships in order to function for the Asamblea’s deliberative process. This not only takes more time, but the frequent intervention of what are serious questions about future impacts on society and ecology mean that deliberations themselves amplify potential social discord, as the President quoted above highlights. Under the stress of these excesses, internal conflict can build and external coercion seep into the

fissures. The term “overburden” makes comment on the ways in which new laws have ushered in exhausting participation in a regulatory process. I have shown the ways in which consultation processes such as social impact assessment and consultation may be considered mundane by the vast administrative and technical engines of government or industry, but mundane processes are experienced by Communities as excessive, since the labour involved in Community deliberation and consultation, and the social dynamics generated exceed what the regulatory process can address. Consultation’s overburden is the negative potential of the process to support local forms of political response and exhaust the organising of daily life in the interests of future plans. Thus, the process of consultation over extractive development leaves unaddressed, pushes aside – as overburden – the ways in which these processes favour developers and opens up potential forms of Indigenous coercion to extractive industry activity in Indigenous territory. To address overburden would mean dealing in practical ways with the problems I have described as temporal and structural excess.

Indigenous peoples in this northern Chilean region have responded to their incorporation into development processes in multiple ways, drawing on a range of tactics to deal with extractivism. I have outlined some of these here. While extractive operations and associated environmental and social impacts of these companies have been accumulating since the mid-1980s, when lithium was first extracted and MEL’s predecessor began to mine copper in the mountains and extract freshwater from the Salar’s watershed, there have only been sporadic rebellions against mining by communities of the Salar. In the past two to three years, in parallel with the momentous legal agreements the community has signed with Albermarle (the lithium miner), and a consideration of agreements with MEL, Indigenous communities around the Salar have begun to build a regional Indigenous movement that refuses some extractive operations. Since 2017, with national environmental measures and consultation processes coming into force in new ways, leaders of communities have begun to demand more from mining companies, refused to engage with them and be increasingly vocal in their accusations of the deficiencies and impacts of new regulation by the state. The Community leaders have indicated that while consultation and other forms of participation in the regulation of development is welcome in principle, the current process is often unworkable.

### Works Cited

Babidge, Sally. “Sustaining Ignorance: the uncertainties of groundwater and its extraction in the Salar de Atacama, northern Chile.” *JRAI* 25 (2019): 83-102.

Babidge, Sally, Fernanda Kalazich, Manuel Prieto, & Karina Yager. “‘That’s the problem with that lake, it changes sides’: Extraction and Ecological exhaustion in the Salar de Atacama, Chile.” *Journal of Political Ecology*, In Press (2020).

Barandiarán, Javiera. *Science and Environment in Chile: The Politics of Expert Advice in a Neoliberal Democracy*. Cambridge: The MIT Press, 2018.

Bolados, Paola. 2014. "Los conflictos etnoambientales de 'Pampa Colorada' y 'El Tatio' en el Salar de Atacama, norte de Chile. Procesos étnicos en un contexto minero y turístico transnacional." *Estudios Atacamenos: Arqueología y Antropología Surandinas*. 48 (2014): 229-48.

Burdge, Rabel and Vanclay, Frank "Social Impact Assessment A Contribution to the State of the Art." *Impact Assessment* 14.1 (1996): 59-86. (DOI: [10.1080/07349165.1996.9725886](https://doi.org/10.1080/07349165.1996.9725886))

Burchardt, Hans-Jürgen and Dietz, Kristina. "(Neo-)extractivism – a new challenge for development theory from Latin America." *Third World Quarterly* 35.3 (2014): 468-486.

Comisión Chilena de Cobre (COCHILCO). "Análisis del proceso de evaluación ambiental de los proyectos mineros." Dirección de estudios y Políticas Públicas (06/2017).

Comisión de Evaluación (Chile), Región de Antofagasta. "Resolución. 'Planta de Sulfato de Cobre Pentahidratado.'" Resolución Exenta N° 0211, Antofagasta, 6 de Diciembre de 2011. [Rejection of the Minera Delfín DIA, 2011] (Available at: <http://infofirma.sea.gob.cl/DocumentosSEA/MostrarDocumento?docId=38/e3/1561b0de85abb9ae25e3ff9646bfa34081ca> last accessed July 18 2019)

Comisión de Evaluación (Chile), Región de Antofagasta. "Resolución No.0318/2017, 'resuelve inicio proceso de consulta a pueblos indígenas en el estudio de impacto ambiental del Proyecto Monturaqui.'" Dirección Regional, Antofagasta, Servicio de Evaluación Ambiental (available at [sea.gob.cl](http://sea.gob.cl)).

Comisión de Evaluación (Chile), Región de Antofagasta. Resolución de desistimiento, "Planta de Sulfato de Cobre Pentahidratado. [Rejection EIA of Miner Delfín] 2019. (Available at: [http://seia.sea.gob.cl/expediente/ficha/fichaPrincipal.php?modo=normal&id\\_expediente=7893580](http://seia.sea.gob.cl/expediente/ficha/fichaPrincipal.php?modo=normal&id_expediente=7893580) last accessed July 18 2019).

Esteves, Ana Maria, Daniel Franks & Frank Vanclay. "Social impact assessment: the state of the art." *Impact Assessment and Project Appraisal* 30.1 (2012): 34-42.

Franks, Daniel. *Mountain Movers: Mining, Sustainability and the Agents of Change*. London: Routledge, 2015.

Goodale, Mark. "Dark matter: Toward a political economy of Indigenous rights and aspirational politics." *Critique of Anthropology* 36.4 (2016): 439–457.

Hale, Charles. 2006. "Engaged Anthropology v Cultural Critique: Indigenous land rights and the contradictions of a politically engaged anthropology." *Cultural Anthropology* 21.1 (2006): 96-120.

- Hébert, Karen. "Chronicle of a disaster foretold: scientific risk assessment, public participation, and the politics of imperilment in Bristol bay, Alaska." *Journal of the Royal Anthropological Institute* 22.S1 (2016): 108-126.
- Kirsch, Stuart. *Mining capitalism: The relationships between corporations and their critics*. Berkeley: University of California Press, 2014.
- Kirsch, Stuart. *Engaged Anthropology*. Berkeley: University of California Press, 2018.
- Latta, Alex & Beatriz Cid Aguayo. "Testing the Limits: Neoliberal Ecologies from Pinochet to Bachelet." *Latin American Perspectives* 39.4 (2012): 163-180.
- Liu, Wenjuan, Datu B Agusdinata, Soe W Myint. "Spatiotemporal patterns of lithium mining and environmental degradation in the Atacama Salt Flat, Chile." *International Journal of Applied Earth Observation and Geoinformation* 80 (2019): 145-156.
- Low, Setha M., and Sally Engle Merry. "Engaged Anthropology: Diversity and Dilemmas: An Introduction to Supplement 2." *Current Anthropology* 51.S2 (2010): S203–S226. (<http://www.jstor.org/stable/10.1086/653837>).
- Ministry of the General Secretariat of the Presidency (Chile) Ley 20.417, "Crea el Ministerio, El Servicio de Evaluacion Ambiental y La Superintendencia del Medio Ambiente." (Available at <https://www.leychile.cl/Navegar?idNorma=1010459> last accessed 20/6/2019).
- Nixon, Rob. *Slow Violence and the Environmentalism of the Poor*. Durham: Duke, 2011
- O'Faircheallaigh, Ciaran. *Negotiations in the Indigenous world: Aboriginal peoples and the Extractive Industry in Australia and Canada*. Routledge, 2016.
- Povinelli, Elizabeth. *Geontologies: A requiem to late liberalism*. Durham: Duke University Press, 2016.
- Sherwood, Dave. "Chile, once the world's lithium leader, loses ground to rivals." *Reuters*. May 30<sup>th</sup> (2019) (<https://www.reuters.com/article/us-chile-lithium-analysis/chile-once-the-worlds-lithium-leader-loses-ground-to-rivals-idUSKCN1T00DM>).
- Yáñez, Nancy and Molina, Raúl. *Las Aguas Indigenas en Chile*. Santiago: LOM Ediciones, 2011.