SEI Stockholm Environment Institute

Rights-based claims and extractive industries in Asia: an assessment and ways forward

Sara K. Phillips

Claudia Strambo

Albert Salamanca

Stockholm Environment Institute is an international non-profit research and policy organization that tackles environment and development challenges.
We connect science and decision-making to develop solutions for a sustainable future for all.
Our approach is highly collaborative: stakeholder involvement is at the heart of our efforts to build capacity, strengthen institutions, and equip partners for the long term.
Our work spans climate, water, air, and land-use issues, and integrates evidence and perspectives on governance, the economy, gender and human health.
Across our eight centres in Europe, Asia, Africa and the Americas, we engage with policy processes, development action and business practice throughout the world.

Contents

Acknowledgements

1. Introduction

The rights of people in natural resources are increasingly acknowledged under international law, and the purview of these rights continues to expand. Key international treaties such as Convention 169 on Indigenous and Tribal Peoples (C169) (ILO 1989) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (UN General Assembly 1979), or declarations such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (UN General Assembly 2007a), entail some form of positive obligations for states in the context of human rights in relation to resource extraction.

Positive obligations require states to act – to do something in accordance with their international commitments. Conversely, negative obligations require a state to refrain from doing something, such as an act that would violate an individual's human rights. Examples of positive obligations found in the abovementioned legal texts include providing mechanisms to prevent dispossession of Indigenous Peoples' lands (UNDRIP, art 8); establishing fair and impartial procedures to adjudicate land claims (UNDRIP, art 27); and, in the case of state-owned mineral resources, establishing procedures for consultation and benefit sharing with affected peoples (C169, art 15). In contemplating state party obligations and the rights of rural women, the Committee for the Elimination of Discrimination against Women describes "rural women's rights to land [and] natural resources … as fundamental human rights" (CEDAW Committee 2016, para. 57).

While companies are not directly the subjects of public international law, a large number of international guidelines to support private sector engagement with rights have also been developed. Examples include the Interlaken Group and Rights and Resources Initiative's "Respecting Land and Forest Rights: A Guide for Companies" (2015), the Voluntary Principles on Security and Human Rights (2000), and the International Council on Mining and Metals 10 Principles (2015, revised).[1] These texts, and others like them, are expected to protect land rights and promote human rights.

At the global level, countries have increasingly recognized the importance of the rights to development. The 2030 Agenda for Sustainable Development (2015), for instance, strongly reflects human rights principles and standards (Jensen et al. 2015) and clearly points to the role of rights in natural resources for inclusive development. Examples can be found in Goals 1, 2, and 5, among others (United Nations General Assembly 2015).

Despite global efforts to recognize and protect rights related to natural resource development, in practice little has improved (Cotula and Berger 2017). Multiple factors contribute to explaining this situation, including practices that, purposefully or not, impede the effective implementation of rights. These include a multitude of crucial issues such as increased persecution of environmental defenders, conflicts among competing rights, and inequitable consequences of land tenure programmes, such as land grabbing and loss of livelihoods (Cotula and Berger 2017; Del Bene, Scheidel and Temper 2018; Global Witness 2018).

Dovetailing with the popularization of resource rights in policies and public discourse, research has paid growing attention to how different actors engage with such rights (Avci et al. 2010; Bünte 2018; Horrocks-Taylor 2018). The focus of these studies has often been determined by the activities of the most influential resource-exploiting industries and the types of issues that people experience. In South and Southeast Asia, the study area of this working paper, the existing academic literature has concentrated primarily on the effects of hydropower development and how social actors mobilize rights to counter new development projects (see e.g., Boer et al. 2016; Chu 2017). Much less attention has been paid to how rights-based claims are made in the mining sector, the circumstances that underlie these claims, and the resultant effects of these efforts. The effects of rights-based claims include how national governments and private mining companies respond to rights-based claims, and whether these responses function to hamper or delay the realization and implementation of rights.

---

1   See also, the International Council on Mining and Metal's "Position statement on indigenous peoples and mining" (2013).

While there exist many versions of what a rights-based approach looks like (Piron 2004; Miller 2014), we draw from what Piron (2004, 2005) identifies as the empowerment and legalistic aspects of rights-based approaches. These characteristics complement one another and are even interdependent at times, though actors may demonstrate preferences depending on the context in which claims are made (Piron 2005). One explanation for these preferences may stem from a legal framework's shortcomings in addressing the scope and dynamism of rights-based claims. In their discussion of the mobilizations around rights and resources, Newell and Wheeler (2006, p. 8) note that while "the law is the medium through which rights-based claims are traditionally expressed", there are limitations to a law-based construction of rights as it may not encompass the ways in which "poorer groups often employ 'living' notions of rights that reflect more adequately the material deprivation or social exclusion they experience."

These limitations are relevant to Piron's (2005) rendering of rights-based approaches that builds on what Alston (1985, pp. 512–513) asserted were the two primary strengths of human rights discourse: "to mobilize people in support of a particular goal, in support of a particular agenda" and "to facilitate access to a range of legal norms and enforcement mechanisms." In this sense, rights-based claims can be envisioned both as a means to address power imbalances, mobilize, and empower actors, and as a tool of access "...to seek the vindication, in a particular setting, of important claims" (Alston 1985, p. 513).

Rights-based claims are characteristically case-based and local; thus, macroanalysis may fail to adequately address the intricacies of context. Accordingly, this study assesses trends in South and Southeast Asia regarding rights-based claims by local actors in the context of struggles around prospective or ongoing extractive activities. The working paper offers an inductive approach to identifying what rights-based claims have been documented in the context of resource extraction. Drawing from a substantial literature review informed by the principles and steps of systematic review, we were able to form a generalized typology of rights-based claims that encompassed environmental justice, Indigenous rights and land claims, and artisanal and small-scale mining (ASM) rights. As part of the validation of these typologies, and to identify gaps in our analysis, we presented some of our draft findings in the mining session of a regional forum on the role of rights-based knowledge in sustainable development in Indonesia, attended by various Indigenous Peoples from Southeast Asia involved in several rights-based claims. This forum was held on 8-9 October 2019 in Westlake Resort, Yogyajakarta, Indonesia.[2]

The working paper is divided into six sections. Following this introduction in Section 1, we present our research questions in Section 2 and methodology in Section 3. In Section 4, we analyse the results from applying our research questions, with Section 5 discussing the different themes that emerged in the review, as well as potential future research opportunities. The paper concludes in Section 6 with a set of final observations that draw on the results of the literature review. Our review protocol is found in the Supplementary Information section.

---

2   Participants of the forum released a statement that can be accessed at http://regional-forum.samdhana.org/wp-content/uploads/Yogyakarta-Declaration_191108-1.pdf

2. Research questions

The primary research question of this assessment is: In South and Southeast Asia, how do local actors affected by natural resource extraction make rights-based claims?

This question is further explored through five supporting questions:

- What types of rights are being claimed, by whom, and where?
- What strategies are used by rights claimants?
- What are the factors that enable or impede the making of rights-based claims?
- What effects do rights-based claims have and why?
- What have been the responses of various stakeholders to these claims?

3. Methods

To answer the research questions, we assessed the existing knowledge base to better understand how local actors, who are affected by natural resource extraction in South and Southeast Asia, make rights-based claims and what are the outcomes of these claims. In this assessment, we reviewed published academic literature on explicit rights-based claims by local actors in the context of conflict over extractive industry activities. We focus on situations where some form of disagreement exists, as mobilizations for making rights-based claims are an expression of (more or less visible) underlying tensions.

The analysis presented herein assesses rights within a sociology of human rights framework (Morgan and Turner 2009) to understand how key actors have operationalized resource rights in complex national and local situations. A sociological approach to human rights focuses on the distribution of rights; that is, it is interested in why and how some groups and peoples are marginalized and deprived of their rights and in the challenges these actors encounter while pursuing them (Frezzo 2014; Brunsma et al. 2019). We take a social constructionist approach, viewing rights in natural resources as socially constructed, mental, and discursive devices that reflect the way people make sense of their struggle over material resources and entitlements. Moreover, we are cognizant that such sensemaking is often shaped by asymmetrical power relations and the diverse interests of different actors in various social, political, economic, and cultural contexts (Stammers 1995; Morgan 2009).

Our literature review adopts principles from a systematic review and mapping approach (Haddaway et al. 2015) that allows for a description of the state of knowledge across a given topic of interest in a robust, comprehensive, and replicable way (James et al. 2016). The purpose of a systematic review is to contribute to the development of new theories, concepts, or understandings (Gough et al. 2012) and to clarify controversies (Haddaway and Pullin 2014). It can also work to identify evidence for policy-relevant matters and subject areas where little evidence exists (i.e. knowledge gaps), and to guide both primary research and knowledge clusters that could be appropriate for secondary research in the future (Bates et al. 2007; James et al. 2016). In this study, we followed the example of Dawkins et al. (2019) and applied a simplified approach to systematic reviews that, while less time-consuming, allowed for maintaining some of the key advantages of that method: a reduced risk of bias, repeatability, consistency, and transparency.

First, we developed a literature review protocol that introduced the review questions to be addressed, identified criteria for selecting relevant literature, and established a literature search strategy as well as coding and synthesis guidelines. Using search strings specifically designed for this purpose, we then collected academic papers in French, English, and Spanish that were published between 1950 and February 2019 and that presented empirical information on how

local actors affected by natural resource extraction make rights-based claims. Academic literature was collected from the Web of Science and Scopus scientific databases.

Three researchers took part in the screening process and items were not double-screened; therefore, a consistency check was performed to reduce the risk of bias and inconsistency across the team (see Supplementary Information). We then performed three rounds of successive screening – title, abstract, and full paper – to assess the relevance of the literature according to predefined inclusion criteria. We used a specialized software, Rayyan, to organize our review.

Extractive industries and the notion of "extractivism" are defined broadly in the literature. For instance, some authors consider large-scale agriculture or big hydropower as extractive industries (Brad et al. 2015; Silva 2016). Here, we rely on a more narrow definition of extractive industries (Cameron et al. 2017) by focusing on oil and gas extraction as well as mining through the phases of exploration, exploitation, and decline. For the context of conflict, we include both violent and nonviolent conflict and consider situations of active disagreement between people with opposing opinions or principles regarding extractive activities.

Given this study's interest in local actors' own sensemaking of conflict and claim-making strategies, we included only that literature which documented explicit rights-based claims, as opposed to claims by authors about local actors' rights. In this context, local actors refer broadly to communities, organizations, or social groups around locations with potential, ongoing, or declining extractive activity and their local representative bodies, such as Tribal councils. Since extractive industries' employees often include migrant workers or personnel from other regions in the country of operation (Coderre-Proulx et al. 2016), we excluded cases where rights-based claims made only by workers are documented. Migrant workers may be long-term residents in areas in which they work and can have legitimate claims related to resource extraction; however, in this review we do not consider migrant workers as local actors for the purpose of maintaining clear selection criteria.

After concluding the screening process, we manually coded the selected documents in a transparent and consistent manner, using a standard coding framework. This framework was designed to extract specific information from the literature, including the nature of the cases documented, such as the country and the type of resource being extracted, and the publication outlet. We then coded the types of rights that were being claimed and the identities of rights claimants, the claiming strategies used by rights claimants, and the circumstances of the claims and their effects. Our coding of rights encompassed any rights asserted by local actors, including those rights formally recognized by law, international norms and principles; rights related to the principles of environmental justice; and claims for new or expanded definitions of existing rights.

Here, strategies refer to plans of action designed to achieve the recognition of rights. They thus encompass but are different from channels, which refer to the means or mediums through which rights-based claims are expressed. Similarly, strategies somewhat overlap with enabling factors – such as resources, conditions of living, and societal circumstances – since strategies are dependent on enabling factors and enabling factors guide strategy design. We also coded whether Indigenous Peoples' rights and/or gender perspectives were present in the literature as resource extraction often entails unique considerations for Indigenous Peoples (Kleinfeld 2016) and in terms of gender (Sweetman and Ezpeleta 2017). These considerations include displacement of Indigenous communities, contested land claims, and gender-based inequalities associated with extractive activities. More details about the methodology, including the coding framework and methodological limitations, can be found in the Supplementary Information.

Once the selected documents had been coded, we catalogued the available evidence and used narrative synthesis, a textual approach to summarize and explain the findings of the synthesis (Popay et al. 2006), to tell the story of the findings from the included studies, to present the context, and to provide an overview of the evidence. We qualitatively analysed

the evidence on the types of rights that were claimed and by whom, the claiming strategies used by rights claimants, the circumstances that enabled or impeded the making of rights-based claims, the effects of claims and the reason behind these effects, as well as the responses of various stakeholders to the claims.

4. Results

General overview of the literature

The literature screening yielded 20 journal articles (see Supplementary Information) that dealt with explicit rights-based claims by local actors affected by extractive industries in a context of conflict in South and Southeast Asia. While this number was surprisingly few, we note that part of the motivation for conducting a literature review is to identify knowledge gaps and opportunities for future research. As the results below indicate, there are a number of opportunities for additional studies that address explicit rights-based claims in the context of mineral resource extraction. The low number of results may also be indicative of limited empirical research conducted in the region as compared to other geographic locations, such as Latin America. Furthermore, it is possible that additional research on rights-based claims involving conflict can be found in national and subnational reports or grey literature, as opposed to peer-reviewed journals. A review of grey literature in English or other national languages may be the next logical step of analysis.

Of the 20 papers included in the review, 19 were published between 2009 and 2018. This may suggest a growing academic interest, especially in light of the internationalization of some conflicts, described further below. The majority of the cases were located in India, four were in the Philippines, with two cases each from Myanmar, Cambodia, Thailand, and Indonesia. One case involved multiple countries in the region. Also of the 20 studies reviewed, 17 addressed the rights-based claims of Indigenous Peoples. Only two cases included an explicit gender dimension. The top three materials extracted by mining companies and described in the literature were gold, nickel, and bauxite. These were followed by copper and iron. Some cases involved the extraction of limestone, jade, oil, cement, marble, manganese, gas, coal, and cobalt.

The types of rights being claimed, by whom, and where

The literature revealed a set of common approaches to rights-based claims in the context of mineral resource development, as well as several shared characteristics of rights claimants in the South and Southeast Asia regions. As mentioned, 17 cases included rights-based claims made by, or on behalf of (e.g., claims made by nongovernmental organizations (NGOs) on behalf of local actors), Indigenous or Tribal Peoples. The identity of rights holders took on varying degrees of importance in the claim-making process, with some actors relying heavily on Indigenous identity to strengthen their claims to resources and land. Conversely, other actors avoided an association with Indigenous identity, viewing it as a potential hindrance to rights-based claims (Keating 2013).

Approaches to rights-based claims can be separated into three broad categories: (a) pursuing environmental justice claims; (b) making Indigenous rights and land claims; and (c) claiming the right to engage in ASM. These categories are intended only to act as descriptive guideposts as, in practice, these groupings can overlap in context and content. Environmental justice, for example, interacts with many of the issues faced by Indigenous Peoples in the context of resource development. This is also true of ASM, where informal operations may leave local communities at risk for loss of livelihoods and adverse environmental and health impacts (IGF 2017). Here, loss of livelihoods refers to the situation in which mining companies are allocated property interests in resources that were traditionally extracted through informal ASM operations.

As discussed below, the intersections of these categories are emblematic of how actors frequently made multiple, simultaneous rights-based claims as part of a larger, overarching

reaction to the presence of extractives within their communities or localities. Due to space constraints, we are not able to address all rights-based claims in the text; however, Table 1 below provides a list of rights-based claims, their location, and context, separated by type of right.

Table 1. Summary of rights-based claims

Type	Claim	Location	Resource
Environmental justice	Right to protection from unregulated toxic chemical disposal and use, right to health	Cambodia	Gold, iron (ASM)
	Right to shared use of resources, right to clean water	India	Limestone
	Right to clean water, right to a healthy environment, right to ensure livelihoods for future generations	Indonesia	Cement
	Right to environmental decision-making, right to a healthy environment	Myanmar	Oil, gas, jade
	Right to a healthy and balanced ecology	Philippines	Gold, copper, nickel
	Right to health, right to health care	Thailand (*two articles*)	Lead
Indigenous rights and land claims	Land claims	India	Bauxite, iron
	Tribal rights and land claims, right to self-determination	India	Coal
	Land claims, right to cultural and spiritual preservation	Indonesia	Copper and gold
	Right to ancestral domain	Philippines	N/A
	Right to free, prior and informed consent	Philippines	Nickel
	Right to free, prior and informed consent, right to ancestral domain	Philippines	Nickel, gold
Artisanal and small-scale mining	Right to access mineral resources, formalization of ASM rights	Cambodia	Gold
Multiple	Tribal land claims, right to consultation	India	Bauxite
	Right to worship, right to compensation, land claims (dispossession)	India (*two articles*)	Bauxite
	Right to consent, right to information, right to clean air and water, right to live, right to health, right to livelihoods, land claims to sacred Tribal grounds	India	Iron, bauxite
	Right to information, property rights, right to equitable benefit and resource sharing	Myanmar	Copper
	Right to free, prior and informed consent, right to environmental decision-making, right to cultural preservation	Philippines	Cobalt, nickel

Environmental justice

Environmental justice is a political response to social injustices and inequality (Pellow and Brulle 2005) that utilises rights-based arguments (Farris 2010) to confront and combat the unequal burden and environmental sacrifice that is often imposed upon "[t]he poor and politically powerless" (Burkett 2008, p. 189). Principles of environmental justice are made actionable using the language of rights. These include, but are not limited to "…the right to be free from ecological destruction … the fundamental right to political, economic, cultural and environmental self-determination of all peoples … the right to participate as equal partners at every level of decision-making … [and] the right of victims of environmental injustices to receive full compensation and reparations for damages as well as quality health care" (FNPCELS 1991). Many other rights may fall under the purview of environmental justice, including Indigenous rights and land claims. For the purpose of clarity, however, we have separated these categories in our analysis.

In the reviewed literature, we found that rights claimants proactively embraced the language of environmental justice to shape their rights-based claims (see e.g., Keating 2013; Asriani 2016; Sitthikriengkrai and Porath 2018). For example, a case in the Doon Valley of India saw local community members challenge the valley's limestone quarry operators on the basis of

ecological destruction, claiming that their right to the shared and responsible use of water resources had been violated (Bandyopadhyay and Shiva 1985). The valley's limestone deposits acted as a natural reservoir for freshwater and provided sustenance for nearly all aspects of the community's life. This essential resource was threatened by increased mining activities in the area. In this instance, the interests of industry actors were balanced against those of the local community, whose survival and agricultural livelihoods depended on the health and vitality of water resources. The limestone quarries threatened the valley's water via the destruction of natural limestone formations and by potential contamination. Local actors' rights-based claims were eventually formalized in a court of law before the Supreme Court of India, which later ruled in their favour (Bandyopadhyay and Shiva 1985).

The right to be free from ecological destruction and rights to clean water, air, and land are integral components of the environmental justice framework (see FNPCELS 1991). Unlike the case study above, these rights are not always formalized into legal claims, but asserted through other pathways, such as collective action and social movements. For example, in Rembang, a community in Central Java Province, Indonesia, concerns over the adverse environmental effects of cement mining led to women's collective action where rights-based claims were rooted to the community's assertion of a right to live and the rights to "clean water, quality land, and enduring prosperity" (Asriani 2016, pp. 80–81).

Similarly, rights-based claims connected to notions of sustainable development can find their voice through the language of environmental justice. In another part of Indonesia, the case of the Molo people of Timor Tengah Selatan, East Nusa Tenggara, involved women activists asserting claims linked to environmental sustainability when contesting marble extraction on their land (Asriani 2016). These claims were based on the right to environmental decision-making. In an environmental justice framework, decision-making extends to all aspects of a development project, from prospecting to reclamation (see e.g., FNPCELS 1991). Furthermore, environmental justice "...imposes some limitation on what [actors] might otherwise do in relation to development" (Tsosie 2007, p. 1669), denoting that decision-making processes should be inclusive and participatory. For the Molo people, environmental sustainability was also connected to their cultural beliefs that considered the stones and mountains sacred (Asriani 2016).

Indigenous rights and land claims

Claims connecting Indigenous rights and environmental justice fall within the domain of the human rights normative framework and situate Indigenous Peoples "...as 'rights holders' in national or international decision-making that impacts their communities" (Tsosie 2007, pp. 1627–28). The literature demonstrates that while Indigenous rights-based claims can be actualized through the pursuit of environmental justice, they are often expressed in a manner that conforms with a jurisdictionally specific or international legal framework. One such example can be found in the principle of free, prior and informed consent (FPIC), a common theme underlying many of the rights-based claims encountered in the literature (Khoday and Natarajan 2012; Rasch and Köhne 2016; Borde and Rasch 2018). As a principle, FPIC is embedded under the right to self-determination, a fundamental tenet of international law (see e.g., FAO 2016). In the context of resource development, FPIC recognizes the land and resource rights of Indigenous Peoples, including the right "...to give or withhold consent to a project that may affect them or their territories ... [and] to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated" (FAO 2016, p. 13; see also, UN General Assembly 2007a, arts. 10, 11(2), 19, 28, 29(2)).

At the national level, some countries have already incorporated FPIC into their domestic legal framework. In our review, the Philippines emerged as the primary jurisdiction in Asia where rights-based claims under the principle of FPIC were made. This may be attributable to the fact that FPIC has been incorporated into the Indigenous Peoples Rights' Act of 1997 (IPRA), and thus is easily identifiable as a right on which legal claims may be based.

The IPRA (1997) mandates certification requirements to demonstrate that Indigenous Peoples have been consulted prior to the start of a development project. However, despite these entrenched legal requirements, rights holders in the Philippines continue to face human rights violations related to mineral resource development (Castillo and Alvarez-Castillo 2009; Aytin 2016). As Aytin (2016) describes, these violations include allegations against the National Commission on Indigenous Peoples for fast-tracking FPIC certificates in favour of mining companies, even when there has not been proper consultation with relevant stakeholders. The result has been the failure of the right of FPIC, as in practice it has been used to provide false assurances of good governance in the Philippines' extractive sector. As Castillo and Alvarez-Castillo (2009, p. 273) explain, "the legal requirement for FPIC is hugely inadequate to protect the rights of Indigenous Peoples, safeguard their interests and minimize harm." This purported deficit in the rule of law has caused Indigenous Peoples to call for a suspension of the FPIC certification process, claiming that it violates their right to self-determination (Aytin 2016).

In one of the more visible and well-studied conflicts that emerged from our literature review, notions of Indigenousness were combined with environmental justice to create a social movement that garnered widespread domestic and international support. The conflict centred around bauxite mining activities on Niyamgiri Mountain in India's Odisha State, home to a community known as the Dongaria Kondhs. Kumar (2014, p. 196) describes the Dongaria Kondhs as "a very small, ethnically-distinct tribe, (numbering around 8,000), who reside only in the Niyamgiri Hills." Prior to the entry of the Dongaria Kondhs in the anti-mining movement, resistance efforts were spearheaded by non-Indigenous local residents who had been adversely affected by development activities (Borde and Rasch 2018). The local population situated their rights-based claims in the context of environmental justice, contending that mining activities disproportionately burdened them with environmental pollution, while the community received few economic and compensatory benefits. It was only after the Dongaria Kondhs joined local residents in their anti-mining efforts that the movement repositioned to an Indigenous rights framework, gaining widespread domestic and international support (Borde and Rasch 2018).

Of particular importance to the ongoing discussion is the Dongaria Kondhs' spiritual and cultural connection to Niyamgiri Mountain, which serves as the sacred resting place of the god, Niyam Rajah, and possesses deep spiritual significance (Temper and Martinez-Alier 2013). Working with activists, the Dongaria Kondhs mobilized this spiritual connection as an advocacy strategy, claiming a right to worship, and linking what Borde and Rasch (2018, p. 206) call "religiosity" with India's formal legal framework. In particular, the Dongaria Kondhs sought relief under the Forest Rights Act (POI 2006, chap. III(5)(c)) that provides, inter alia, protection against "any form of destructive practices affecting … cultural and natural heritage."

In their discussion of the struggle for land rights related to copper and gold mining in West Papua, Indonesia, Sethi et al. (2011) also address the role of spiritual and cultural connections to land. The authors explain that the "Papuans see the land as a crucial part of their being. Land is not so much a commodity to be exploited, it is a spiritual and physical treasure to be enjoyed and protected" (Sethi et al. 2011, p. 4). The Papuans thus connected their claims for land rights and environmental decision-making with their religious and cultural connections to place. It was at once a struggle for freedoms linked to their spiritual relationship with the land and one of environmental justice, where the right to be free from ecological destruction was integral to avoiding mining-related land contamination and environmental degradation (Sethi et al. 2011).

Rights-based claims related to preserving cultural traditions, beliefs, and customs are supported by international law and international human rights norms and standards. The UNDRIP, article 25 (2007a), affirms that "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands", directly supporting Indigenous Peoples' spiritual connection to a particular geographical place. The UNDRIP also calls on states to provide redress to Indigenous Peoples

whose "religious and spiritual property [is] taken without their free, prior and informed consent or in violation of their laws, traditions and customs" (2007a, art 11(2)). Although the UNDRIP obligations are non-binding in nature, "the Declaration reflects and builds upon human rights norms of general applicability" and has been adopted by a majority of United Nations Member States (APF and OHCHR 2013, p. 37). These obligations thus have an important normative function for the ways in which rights are operationalized and rights-based claims are made.

Artisanal and small-scale mining

The final category of rights-based claims to be discussed is ASM. In the context of resource rights, ASM is characterized by a struggle over the right to develop mineral resources and maintain livelihoods through mining. These claims can manifest in unique ways, depending on the identity and geographical location of ASM actors. For example, in reference to ASM in India, Lahiri-Dutt (2017, p. 797) explains that the poor, Indigenous, and rural communities of the State of Jharkhand "exert a moral claim to coal by mining it illegally, whereas indigenous communities who mine their lands similarly in the state of Meghalaya invoke the special status they enjoy in the Constitution of India to exert a political claim." A similar example was shared during the Yogyakarata meeting of October 2019 by Indigenous Peoples from Sagada, Philippines who belong to the Pidlisan Tribe Organization regarding their right to engage in small-scale mining in the area, following customary law.

In Cambodia, ASM has been subject to competing discourses that reflect diverse interests in the extractive sector. For Kuy villagers of Preah Vihear Province, claims for recognition of Indigenous identity to gain the status of Community Protected Area conflicted with those community members who feared such recognition would entail losing local government access to mineral resources and thus loss of their ASM livelihoods (Keating 2013). This fear was connected to what Keating (2013, p. 309) describes as "persistent discrimination against groups … claiming Indigenous identities." Discrimination has purportedly contaminated the procedural framework that governs land registration and recognition of Indigenous identity, arguably working to undermine local actors' claims to ASM rights (Keating 2013).

In those areas of Cambodia where ASM remains largely informal, debates surrounding how productivity in the extractive sector is measured, along with "differing conceptualizations of currently-unlicensed artisanal mining" have resulted in a growing dialogue on regulatory approaches in mining (Spiegel 2016, p. 568). Advocating on behalf of artisanal miners, NGOs situate rights-based claims in the framework of formalization (Spiegel 2016), meaning that artisanal miners could potentially secure legally enforceable property rights in resources and land. This would possibly alleviate competing claims to resources and the aforementioned concerns over livelihood security (Spiegel 2016). However, such aspirations must be considered in view of the discriminatory procedural processes described by Keating (2013).

The strategies used by rights claimants

Our research found that rights-based claims were made using multiple strategies, which were often undertaken simultaneously. In this regard, the literature showed that local actors worked to maximize available resources to pursue rights-based claims, including concurrent strategic approaches that incorporated multiple channels of claim-making. Recall that strategies refer to rights claimants' plans of action and will encompass channels – the means through which rights-based claims are made. Because of this close connection, strategies and channels are examined in conjunction with one another; for example, if referring to litigation, we would reference the channels of the court system and legal framework.

Although claimants utilised litigation and law-based approaches to a great extent, these strategies were generally coupled with mass actions, such as protests, peaceful demonstrations, blockades, and other forms of collective action (Bandyopadhyay and Shiva 1985; Assavarak

2012; Khoday and Natarajan 2012; Oskarsson 2013; Kumar 2014; Aytin 2016). Discourse strategies also played an important role in rights-based claims, where local actors employed the language of dominant institutions to raise awareness of their cause, to further claims in a formal setting, or to engage with members of the broader national and international community (Schippers 2010; Assavarak 2012; Kumar 2014; Rasch and Köhne 2016; Spiegel 2016; Borde and Rasch 2018; Bünte 2018; Sitthikriengkrai and Porath 2018). Additionally, strategies rooted in what Temper and Martinez-Alier (2013, p. 52) refer to as "cultural politics" worked to link Indigenous identity to popular culture and served as instruments of protest in the international arena. Rights claimants also promoted alternative pathways of economic development, advocating for ecotourism over mining in the context of rights-based claims related to environmental protection (Borde and Rasch 2018).

In conjunction with these strategies, the literature revealed diverse channels for claim-making. Domestic legal systems emerged as the primary channel through which rights-based claims were made. Some of these claims were classified as legal activism (Oskarsson 2013) or as public interest litigation, with one case study noting the appearance of judicial activism in favour of rights claimants (Temper and Martinez-Alier 2013). Rights holders also utilised formal government channels to initiate rights-based claims, either through specific agencies or individual government actors (Assavarak 2012; Oskarsson 2013; Kumar 2014; Asriani 2016).

The media served as another valuable channel through which strategies to raise awareness of local struggles were realized. In multiple cases, media outreach resulted in garnering widespread attention and support for rights claimants (Assavarak 2012; Borde and Rasch 2018; Sitthikriengkrai and Porath 2018). Finally, international platforms, such as the United Nations Permanent Forum on Indigenous Issues (Khoday and Natarajan 2012) and the Extractive Industry Transparency Initiative (EITI), served as conduits for rights-based claims and provided opportunities to address human rights issues (Bünte 2018).

A relevant example of combination strategies emerged from the aforementioned case study in India, where rights claimants utilised both political action and litigation to pursue rights-based claims. In the case of the Dongaria Kondhs, litigation efforts rested on alleged violations of the 2006 Forest Rights Act by the mining company, Vedanta Resources (Kumar 2014; see also, Temper and Martinez-Alier 2013). The dispute eventually led to a challenge by Vedanta Resources before the Supreme Court of India (Kumar 2014). The court found that village assemblies were tasked with the responsibility to decide whether an action violates the forest or religious rights of the community, and such decisions must be taken into account by state governments before issuing licences for mining activities (Kumar 2014). Litigative efforts against Vedanta Resources were carried out in conjunction with political action that used strong actor networks to garner widespread domestic and international support. This support manifested in international protests in defence of the Dongaria Kondhs and a blockade by approximately 10,000 people of mining activities on Niyamgiri Mountain (Kumar 2014).

In other jurisdictions, where access to formal legal channels was not immediately available, rights holders pursued alternate strategies of claim-making to litigation. These strategies were focused on advocacy and made strategic use of available social and political resources and rights claiming tools. It should be noted again, however, that even when formal legal channels were readily accessible, rights holders employed multiple channels and a variety of strategies in pursuit of their claims.

In Tumbak, Indonesia, when efforts to open a dialogue with the government regarding manganese mining activities failed, female activists undertook nude protests (Asriani 2016). These nude protests worked to demonstrate "the strong bond between women, bodies, and nature" (Asriani 2016, p. 84) and arguably emphasized the urgency of the community's rights-based claims. Feminist protest was also a catalyst for activism in Rembang, Indonesia, where women organized a movement called Tolak Semen (Against Cement) (Asriani 2016). The movement created a site

of resistance in the location where mining was occurring, which the women occupied day and night. The "…women realized that the right to live on their land was an important matter … [and] felt that femininity was not about passivity and weaknesses, but more about how to keep their sources of life" (Asriani 2016, p. 81).

In Myanmar, the EITI, "a voluntary arrangement that aims at promoting transparency of revenues and payments in the extractive industry" (Bünte 2018, p. 230) provided a strategic channel through which civil society could pursue greater participation in resource development decision-making. Using the EITI as a platform for reform, civil society established the Myanmar Alliance for Transparency and Accountability (Bünte 2018). This alliance sought to vitalize rights claimants through their objectives "to advocate for transparency and accountability and to promote the freedom of public participation and scrutiny of the use of natural resources" (Bünte 2018, p. 242). The alliance's efforts eventually led to strengthened participatory mechanisms for local actors in Myanmar (Bünte 2018).

Factors that enable or impede the making of rights-based claims

The literature showed a wide range of obstacles to rights-based claim-making (Table 2). To begin with, capability-related limitations were important in some cases, such as a lack of experience negotiating or engaging in the litigation process (Castillo and Alvarez-Castillo 2009; Bünte 2018), or difficulties understanding highly technical information, legal requirements, and procedures (Oskarsson 2013; Asriani 2016). Other obstacles included poverty and the adverse consequences of temporarily leaving current livelihoods to pursue rights-based claims (Assavarak 2012; Aytin 2016). The barriers we identified also relate to issues of access to information, legal resources, and policymakers; geographical isolation; and language and discrimination (Lund and Panda 2011; Assavarak 2012; Asriani 2016).

Another set of barriers concerns governance settings and practices that constrain opportunities to make rights-based claims. Claims may also be unsuccessful because of weak rule of law or because the balance of power does not favour claimants (Lund and Panda 2011; Keating 2013; Spiegel 2016). For example, in Cambodia, the Land Law (2001) limits the size and types of land that can be protected through communal titling (NAC 2001; RGC 2009; see also, Keating 2013). The country's governance practices also favour large-scale mining concessions over ASM (Spiegel 2016). This has impeded the formalization of ASM and the recognition of small-scale miners' resource rights.

Discursive factors can also impede rights-based claims. In situations of conflict over extractive activities, there may be competing truth claims. In Thailand, the claim by Karen villagers at Klity Creek and a supporting NGO that their right to health was being violated due to lead contamination by mining activities was challenged by the medical establishment and the Provincial Health Services. Studies by health authorities showed levels of lead concentration in villagers' blood that would have sparked immediate intervention in other countries, such as the United States. However, a higher threshold-level for intervention was established in the Thai context, which undermined the Karen villagers' claims of causation, reflecting broader issues of asymmetrical power dynamics between the community and government authorities (Sitthikriengkrai and Porath 2018). Litigating issues of contamination also presents barriers, as proving causation between extractive activities and the violation of rights can often be difficult (Assavarak 2012).

The literature also pointed to several cases where there were political and economic concerns, including those connected to undertaking an Indigenous rights-based approach to claim-making. In the Philippines and Cambodia for instance, groups defending Indigenous rights have been commonly perceived as associated with leftist organizations and even accused of being rebels (Schippers 2010; Keating 2013). The case study about Kuy villagers in Cambodia indicated that local authorities feared that if the community were to gain recognition as a Community Protected Area, then the local government could lose access to natural resources, notably for artisanal

mining (Keating 2013). Related security concerns are also a key barrier to rights-based activism, and can include fears of physical violence and threats to activists' lives and safety (Castillo and Alvarez-Castillo 2009; Schippers 2010; Borde and Rasch 2018). Other obstacles mentioned in the literature included internal divisions in the community that can hinder the formation of a strong actor coalition (Kumar 2014) and communication breakdowns between stakeholders in negotiations (Assavarak 2012; Bünte 2018).

With regard to enabling factors of rights-based claims, considerable attention is placed on effective framing strategies (McCright and Dunlap 2000; Temper and Martinez-Alier 2013; Aytin 2016). For example, Schippers (2010) demonstrates how in a case in the northern Philippines, keeping a light framing of Indigenous rights – emphasizing the dynamics of culture rather than essentializing Indigenousness – and distancing itself from left-wing ideology allowed support to build within the community. In certain locations, religious organizations helped to frame local communities' rights-based claims, often calling upon the resources of international religious networks for support (see e.g., Castillo and Alvarez-Castillo 2009; Asriani 2016).

Effective communication and sustained media coverage may be important enabling factors as well (Castillo and Alvarez-Castillo 2009; Assavarak 2012). Endorsements by celebrities contributed to attracting public attention and supported rights claimants in some cases (Kumar 2014; Borde and Rasch 2018). The death of key activists also had similar effects (Borde and Rasch 2018; Sitthikriengkrai and Porath 2018).

In the literature, the ability to build advocacy networks and actor coalitions formed another recurring enabling factor (Castillo and Alvarez-Castillo 2009; Assavarak 2012; Oskarsson 2013). For instance, in Nagaland, India, where a ban on coal mining was established by the state government, the pressure from powerful non-state actors, including a student union, a coalition of landowners, traders, and village councils, was key in allowing the Naga people to exercise their resource rights and to continue mining coal (McDuie-Ra and Kikon 2016). Building unity may be done in unexpected ways. In Northern Mindanao, Philippines, Manobo rights claimants set up a food security programme with the support of civil society organizations (CSOs) that helped bring people together in their struggle for land rights and self-determination (Aytin 2016).

Another significant enabling factor identified in the literature was the support of civil society actors, both domestic and international. This backing by communities, NGOs, and Indigenous Peoples, as well as religious and student organizations, can take many forms. These forms include supplying legal and technical advice, assisting in negotiations, designing and implementing communication strategies, providing access to communication platforms and funding, and donating in-kind support – because advocacy activities take people away from their livelihoods (Castillo and Alvarez-Castillo 2009; Schippers 2010; Lund and Panda 2011; Assavarak 2012; Khoday and Natarajan 2012; Keating 2013; Oskarsson 2013; Asriani 2016; Sitthikriengkrai and Porath 2018). Organizations abroad may also support rights claimants by lobbying and elevating the public profile of the conflict. Additionally, citizens applied pressure on governments in countries where extractive companies are headquartered (Castillo and Alvarez-Castillo 2009; Kumar 2014).

In some cases, rights claimants were supported by ot and Kikon 2016). In the Doon Valley of Uttar Pradesh, India, the Department of Environment of the Government of India and the City Board both supported local urban and rural communities claiming that limestone extraction would put their livelihoods in peril and violate their rights (Bandyopadhyay and Shiva 1985). The aforementioned case in the Philippines documented how receiving financial resources from donor agencies enabled a community to enlist dedicated personnel to collect essential information and ensure that the requirements to prove Indigenousness and obtain a Certificate of Ancestral Domain Title were fulfilled (Schippers 2010).

Domestic institutions, such as an independent judicial system, constituted an important factor

that enabled rights-based claims (Kumar 2014). Ironically, poorly functioning institutions may also enable rights-based claims or provide an advantage to rights claimants. For instance, in central India, outdated land registers delayed the formal acquisition of land for developing bauxite mines, which gave time to rights claimants to build momentum and gather support (Oskarsson 2013). In the Odisha State of India, multiple inconsistent interpretations by the court of the Forest Rights Act (2006) has led to many extractive sector projects being put on hold (Khoday and Natarajan 2012). Table 2 summarizes these various factors according to whether they enable or impede the making of rights-based claims.

Table 2. Summary of enabling and impeding factors

	Impeding factors	**Enabling factors**
Capabilities	Limited technical knowledge or experience negotiating	Support by CSOs through technical advice, assistance in negotiations
	Limited access to information, legal resources, and policymakers	In-kind support by CSOs Planning advice Communication guidance
	Language and discrimination	Financial support by CSOs
	Poverty and the repercussions of temporarily leaving traditional livelihoods	
	Geographical location	
Institutional settings	Burdensome administrative requirements to obtain collective Indigenous recognition	Independent judicial system
	Governance settings that privilege large-scale mining over artisanal mining or other livelihoods	Legal uncertainty that discourages foreign direct investment in extractive industries
Discourses	Competing truth claims	Effective framing strategies
		Effective communication and sustained media coverage
		Support by civil society in designing and implementing communication strategies, providing access to communication platforms
Sociopolitics	Rights claimants being associated with radical organizations and even guerillas	Building advocacy networks and actor coalitions
	Communication breakdowns between stakeholders in negotiations	Support by parliamentarians, municipal authorities, or specific state agencies and departments
	Internal divisions in the community	
Existential issues	Threats and security concerns	Death of rights claimants

The outcomes of rights-based claims and the responses of various stakeholders

The literature also documents cases where rights were recognized, either administratively (Schippers 2010), after litigation (Assavarak 2012; Temper and Martinez-Alier 2013), or due to political pressure (Sitthikriengkrai and Porath 2018). Sometimes, rights-based claims have led to the indefinite or temporary suspension of extractive activities following administrative or court decisions (Castillo and Alvarez-Castillo 2009; Assavarak 2012; Khoday and Natarajan 2012; Oskarsson 2013; Temper and Martinez-Alier 2013; Kumar 2014; Asriani 2016; Tang-Lee 2016;

Borde and Rasch 2018). In some cases, the outcome of rights-based claims has been a change in how extractive companies engage with local communities, towards a more participatory approach (Sethi et al. 2011; Assavarak 2012; Tang-Lee 2016). Examples of such changes include the initiation of independent assessments or enquiries into the consequences of extractive activities and the company's relations with local communities (Lund and Panda 2011; Sethi et al. 2011). For example, the United Nations Special Rapporteur on human rights and fundamental freedoms of Indigenous Peoples sent a mission to the Philippines in 2002 to investigate the plea of Indigenous Peoples (Castillo and Alvarez-Castillo 2009). However, stakeholder engagement processes and participatory mechanisms led by extractive companies may remain tokenistic, and their assessments or announced voluntary measures are not necessarily followed up or implemented effectively (Lund and Panda 2011). Despite this, the literature also suggests that the making of rights-based claims can lead to increased capabilities and opportunities that can include greater access to information and health services (Sitthikriengkrai and Porath 2018), increased technical knowledge (Assavarak 2012), better job and training opportunities (Sethi et al. 2011), and empowerment as a result of advocating in the public domain (Castillo and Alvarez-Castillo 2009; Lund and Panda 2011).

There may also be broader impacts of rights-based claims, such as the recognition of new rights or changes in the governance of extractive industries (Khoday and Natarajan 2012; Bünte 2018). In Niyamgiri Hills in Odisha, India, litigation strategies led to the court's recognition of the right to a safe environment and the acknowledgement that the right to livelihood is inextricably linked to the right to life (Temper and Martinez-Alier 2013). Such changes can also lead to the opening of new political spaces (Lund and Panda 2011; Tang-Lee 2016). For instance, because of the pressures applied by civil society in Myanmar, the government adopted a decentralized, multilevel sectoral approach to implementing the EITI, thus creating new pathways for civil society to make rights-based claims and demand transparency (Bünte 2018). One paper also highlighted international responses to rights-based claims. Following public outrage over the conflict between a company with headquarters in the United Kingdom and local communities surrounding a prospective bauxite mining site in India, the Norway Pension Fund decided to divest from the company, and the United Kingdom National Contact Point for the OECD Guidelines for Multinational Enterprises (OECD 2011) filed a complaint against the company for alleged violations of Indigenous communities' rights and freedoms (Kumar 2014).

Public pressure, both domestic and international, emerged as a key reason why companies and state agencies changed their way of interacting with communities or modified administrative decisions regarding extractive activities (Castillo and Alvarez-Castillo 2009; Spiegel 2016; Bünte 2018; Sitthikriengkrai and Porath 2018). Communication strategies – in terms of target audience, channels, and frames – were essential for mobilizing the public and maintaining media attention (Kumar 2014).

The responses of states and companies to counter rights-based claims can themselves be initial outcomes. These responses may include reducing access to financial resources, enacting administrative and legal restrictions or additional regulatory burdens, and even acts of physical violence (Tarrow 2011). Similar responses were found in South and Southeast Asia, with varied degrees of success. However, the literature revealed that rights claimants often prevailed despite initial responses that proved detrimental, as in the case of Karen villagers of Klity Creek in Thailand who suffered from lead pollution. Despite initial setbacks, including denials of lead poisoning by the medical community, the villagers eventually received drug treatments from Thailand's Ministry of Public Health and medicines from the NGOs supporting them. The Pollution Control Department also stepped in to rehabilitate the creek (Assavarak 2012; Sitthikriengkrai and Porath 2018).

In Myanmar, mobilizations by affected villagers with support from CSOs forced the government to require a Chinese company to act on their complaints. This resulted in a commitment to invest US$ 2 million annually to comply with international environmental standards and to allocate 2% of

the company's net profits to corporate social responsibility activities. The company also set up a Community and Social Development team composed of village leaders to act as a bridge between the company and the villagers. Despite these measures, trust between villagers and the company continued to be strained. Rights claimants expressed concerns that the measures were only meant to placate them and not to resolve their complaints (Tang-Lee 2016).

As part of the Vedanta case in India, a committee was assigned to review complaints by Tribal groups that mining activities had violated their religious and forest rights. Based on its review, the committee recommended that the government withdraw the mining firm's environmental clearance permits, which it did (Khoday and Natarajan 2012; Temper and Martinez-Alier 2013; Kumar 2014). In another case in India, court litigation in Chhattisgarh related to coal mining pollution led to improved environmental control mechanisms (Oskarsson and Bedi 2018). By contrast, an Indian government ban on coal mining in Nagaland and Meghalaya was opposed by local Tribal communities and, in some areas, the communities themselves resumed coal mining under the authority of Tribal councils (McDuie-Ra and Kikon 2016).

In some instances, such as in Tumbak, Indonesia, women-led social resistance resulted in the cessation of manganese mining (Asriani 2016). In other circumstances, rights-based claims were unsuccessful due to intense lobbying by the extractive industry and the government's unwillingness to engage with the demands of rights claimants affected by resource extraction operations. In extreme situations, responses to rights-based claims included the murder of human rights activists, such as in Palawan, Philippines (Borde and Rasch 2018). There may also be an increasing military presence around communities where rights-based claims are being made, and an upturn in violence, insecurity, and human rights violations (Castillo and Alvarez-Castillo 2009; Aytin 2016).

In short, communities affected by extractive industry operations mobilized to protest adverse environmental impacts and human rights violations, but also to assert their rights in natural resources. The response of government and industry was varied. Some responses were exclusionary or oppressive. Others opened new pathways for participatory decision-making, led to increased recognition of Indigenous rights, and in some cases, more substantive control over land and resources for communities. These inconsistencies demonstrate that the efficacy and use of rights-based claims is often dependent on internal, situationally specific factors, such as rule of law, access to information and resources, and the ability to build networks.

5. Emerging themes and future opportunities

Several themes emerged through the course of our literature review. These themes relate to issues that arose in multiple contexts. They represent areas that are particularly relevant for future study and additional comparative rights-related research. The themes include the opening of new political spaces; the use of contentious politics in rights-based claim-making; the internationalization of resistance movements; the emergence of new international human rights and environmental norms; the role of civil society in enabling, and also impeding, rights-based claims; the effectiveness of stakeholder engagement processes and assessments; and the inextricable link between human rights and resource development.

An extensive amount of literature has documented the politics associated with the ongoing struggles of local groups and communities to participate effectively in decision-making that determines their future and how governance instruments fall short of their stated intent (see e.g., Leifsen et al. 2017). Studies also show how corporate actors employ their compliance with the United Nations Sustainable Development Goals to divert attention from more specific, and hence more constraining, human rights obligations. This arguably highlights the risk of tokenism, as observed in many corporate social responsibility efforts to date (see e.g., Spencer 2018).

When national informal and formal institutions limit the realization of rights, rights claimants have sought to modify the balance of power outside of the prevailing domestic institutional framework in at least two important ways. The first relates to the use of strategies of contentious politics, such as collective counter-hegemonic social and political action, in which diverse actors congregate to challenge dominant systems of authority to bring about alternative imaginaries (Leitner et al. 2008). As our reviewed cases illustrate, strategies can be very diverse. They reflect traditions of collective political claim-making as they are rooted in the historical and sociocultural context (Taylor and Van dyke 2007; Tarrow 2011).

The second way in which rights claiming actors have tried to circumvent domestic institutional and cultural restrictions is through building international support networks to generate outside, external pressure in addition to pressure from within the community. In many cases, internationalization of resistance supported local social movements to strengthen advocacy campaigns and broaden their reach and influence (Khagram et al. 2002; Brooks 2005; Sawyer and Gomez 2008). This is a recurring factor enabling rights-based claims in the cases reviewed in this study.

Structural considerations are determinant for strategies of contention, too: political resistance comes not only from actors' motivations and interests, and the resources at their disposal, but also from the political opportunities in their operational context (Meyer 2004). And since political opportunity structures exist at different scales, the tactics used by rights claimants have become multi-scalar (Dietz and Engels 2017).

In this regard, the operationalization of rights reflected a deliberate approach by rights holders, based on situationally specific sociocultural and political factors and involving a variety of channels and claiming strategies. These strategies were multi-scalar and reflective of structural and institutional considerations. Rights-based claims were framed to maximize the resources available to claimants and to achieve the desired outcome; hence, producing the decision to use a particular approach. The manner in which rights-based claims were articulated was also dependent on various external factors such as livelihoods, socioeconomic status, and access to information and to natural, human, financial, social, and political capital. The ability to make rights-based claims was also heavily reliant on domestic legal institutions that both enabled and hindered rights holders. In jurisdictions that lacked formal routes for rights-based claims, actors sought alternative avenues of redress and communicated claims outside traditional legal channels.

The role of civil society – in particular, NGOs – in supporting local communities was significant to the promulgation of rights-based claims. Generally, NGOs functioned as enablers, providing technical expertise, resources, and strategic coordination (Castillo and Alvarez-Castillo 2009; Lund and Panda 2011; McDuie-Ra and Kikon 2016). At times, NGOs also acted as primary rights claimants, usually working in conjunction with local organizations or communities towards a common cause (Bünte 2018). An NGO's involvement in the claim-making process frequently produced positive outcomes for rights holders; however, the literature also revealed that NGOs could detract from the efforts of rights claimants, in furtherance of an organizational agenda, for example. The case of Karen villagers of Klity Creek in Thailand was indicative of these conflicts of interest. While the NGO largely assisted Karen villagers in their efforts, at times the interests of the NGO collided with that of villagers, resulting in barriers between stakeholders and miscommunications that had detrimental effects (Sitthikriengkrai and Porath 2018).

Conflicts of interest between NGOs and local communities are not unique to the extractive sector. In 2015, Banks et al. argued that NGOs' transformative abilities had been hampered, due in part to donors' emphasis on results. In essence, NGOs were constrained "in their ability to strengthen civil society" by accountability mechanisms that focused on donors as opposed to their beneficiaries, the local communities (Banks et al. 2015, p. 709). An NGO's exclusionary discourse can also impede efforts on the ground (Redhead 2015). In describing imagery from Amnesty

International's 2004 campaign, Stop the Violence Against Women, Redhead (2015, pp. 78–79) argued that the NGO conflated the "terms sex and gender" thereby affecting "women's agency in human rights discourse because … the universalist discourse privileges men over women." While Redhead's (2015) example is not drawn directly from our rights-based literature review, it serves to further explain the ways in which an NGO's operational agenda may sometimes conflict with the objectives of beneficiary communities.

In regard to extractive industries and human rights, the literature revealed several areas worthy of further study. In particular, the cases we looked at demonstrated a continued development of new international norms governing the obligations of corporate and state actors. In particular, the literature identified those norms found predominantly in the UNDRIP and the principle of FPIC, both of which constitute important fixtures in the growing toolbox for accountability in the extractive sector. In the discussion of norms, it is worth noting that the concept of environmental justice provided a foundation for many rights-based claims in the reviewed literature. The relationship between environmental justice and mineral resource development thus warrants additional review. This could entail studying how environmental justice is actualized in relation to resource extraction in place-based contexts.

Most of the reviewed studies focused on direct outcomes in terms of the recognition of rights and the repercussions on extractive activities. However, a few studies also mention the creation of new political spaces where less powerful actors can voice concerns and demands. This type of outcome has been observed in other contexts, such as Colombia, where a strategic use of constitutional participation mechanisms and litigation by rights claimants resulted in derailment of extractive activities in various parts of the country (Dietz 2018). Together with the creation of new norms and the recognition of new rights, this type of broader outcome represents a change in the structural conditions that contribute to, and influence, the practice of rights.

6. Conclusion

What this assessment has shown is that, despite new developments in, and spaces for, rights-based claims in the context of extractive industry development, much remains to be done to support rights claimants. Too often, Indigenous Peoples and local communities suffer from the consequences of extractive industries. While international mechanisms – such as the UNDRIP and the Sustainable Development Goals – and the principles of environmental justice provide pathways for rights-based claim-making, recourse measures are still hard-fought, resource-intense efforts that are difficult to sustain for many rights holders.

The onus for such protections should not rest solely upon the shoulders of rights claimants. In the context of South and Southeast Asia, there is a great deal of room for industry and government to engage with inclusive development and participatory decision-making principles. This includes engaging with, and substantively addressing, the concerns of communities who are affected by resource development. That said, this assessment has ramifications for two important areas: more effective support of rights-based claims and future research on rights-based claims.

More effective support of rights-based claims

In 2007, John Ruggie, the United Nations Secretary-General's Special Representative for business and human rights, issued a report specifically addressing standards of corporate responsibility and accountability (UN General Assembly 2007b). In reference to soft, or non-binding legal mechanisms, Ruggie explained that they "derive [their] normative force through recognition of social expectations by states and other key actors" (UN General Assembly 2007b, p. 14). The UNDRIP and EITI are examples of soft law instruments that have important normative value in the context of resource extraction. While not legally binding on states, as Barelli (2009, p. 983)

explains, the UNDRIP "has important legal effects and can generate reasonable expectations of conforming behaviour." Similarly, the EITI is representative of states' acceptance of standards of transparency and reporting in mineral resource development.

The intersection between soft law mechanisms and rights-based claims becomes most significant at the state level of implementation. Even where human rights norms were incorporated into the domestic legal framework, as in the case of FPIC in the Philippines, rights-based claims were often obstructed. Obstructions stemmed from structural or institutional deficits, such as the rule of law or overly cumbersome procedural and regulatory processes that made utilising formal channels of claim-making difficult, if not impossible. Thus, the literature reveals the importance of not focusing on the agency of rights holders alone but on structures, too. This includes the need to address structural poverty and inequalities (e.g., capabilities, resources, and access) to reinforce agency; and to create new political spaces for effective influence of rights holders.

The power dynamics between and among stakeholders also bear importance in supporting the efforts of claimants. The literature indicated that while international context is important, state level conditions, such as political environments and institutional access, are primary determinants for the ease with which rights-based claims are made. In some jurisdictions, rights claimants were at risk of violent backlash, resulting in the murder of activists (Borde and Rasch 2018). This highlights the importance of state level guarantees of human rights protections and indicates that, as a strategy, contentious politics requires an analysis that includes situationally specific jurisdictional context. How these circumstances affect the claim-making process and support, or impede, rights-based claims also merits further consideration.

Future research on rights-based claims

The results of the literature review revealed several opportunities for research, including gaps in the current knowledge base. Few articles specifically addressed rights-based claims. When not explicit, issues arose as to whether the literature indicated a direct reference to local actors making rights-based claims or if a description of conflict was the author's explanation of opposition within a rights framework. This has implications for the analytical accuracy of how rights-based claims are made on the ground and whether the literature reflects rights claimants' perspectives or those of the authors. Accordingly, there is arguably a need for additional empirical research that focuses exclusively on rights holders engaged in conflict over mineral resource development and how rights-based claims are framed in these contexts.

How rights-based claims are framed is also important to the effectiveness of claims in relation to political opportunities across spatial scales. As described, approaches to rights-based claims were situationally specific but also international in reach and influence. Multi-scalar strategies were commonplace among rights claimants, and research on mineral resource extraction in South and Southeast Asia could benefit from additional empirical studies regarding the relationship between transnational social movements and rights-based claims.

The relationships among stakeholders, including the dynamics of capabilities and empowerment, also warrant additional research. These power relations and the subsequent effects on extractive industry governance, the opening of new political spaces, and domestic incorporation of international norms directly affect outcomes of rights-based claims, in both the short- and long-term. When viewed through a critical lens, these outcomes can tell us more about the nature and formation of rights-based claims and the institutional capacities of different jurisdictions to support local actors in their claim-making endeavours. In this regard, further examination of the role of the judiciary, legal institutions, and domestic legal frameworks governing the extractive sector could inform research on structural inequalities that affect rights claimants. Additional research of this nature could also produce practical suggestions on how different actors, including NGOs and donors, can more effectively support rights holders and implement their duties and obligations in various human rights treaties in the context of extractive industry development.

References

Alston, P., 1985. The Shortcomings of a Garfield the Cat Approach to the Right to Development. Calif. *West. Int. Law J.* 15, 510–518.

Antons, C. (Ed.), 2017. *Routledge Handbook of Asian Law, 1st ed.* Taylor and Francis, Oxon.

APF, OHCHR, 2013. *The United Nations Declaration on the Rights of Indigenous Peoples: A Manual for National Human Rights Institutions.* Asia Pacific Forum of National Human Rights Institutions and the Office of the United Nations High Commissioner for Human Rights.

Asriani, D.D., 2016. Training instruments for environmental justice for women in Indonesia: A community development project of ASEAN Study Centre. *Asian J. Womens Stud.* 22. https://doi.org/10.1080/12259276.2015.1133165

Assavarak, P., 2012. Constructed Identity and Community Self-Expression to Perceive Human Security; Case Study of Klity Village, Kanchanaburi Province, Thailand. *Mediterr. J. Soc. Sci.* 3. https://doi.org/10.5901/mjss.2012.v3n3p239

Avci, D., Adaman, F., Ozkaynak, B., 2010. Valuation languages in environmental conflicts: How stakeholders oppose or support gold mining at Mount Ida, Turkey. *Ecol. Econ.* 70. https://doi.org/10.1016/j.ecolecon.2010.05.009

Aytin, A., 2016. A social movements' perspective on human rights impact of mining liberalization in the Philippines. NEW Solut. *J. Environ. Occup. Health Policy* 25, 535–558.

Bandyopadhyay, J., Shiva, V., 1985. The Conflict Over Limestone Quarrying in Doon Valley, Dehradun, India. *Environ. Conserv.* 12, 131–139. https://doi.org/10.1017/S037689290001554X

Banks, N., Hulme, D., Edwards, M., 2015. NGOs, States, and Donors Revisited: Still Too Close for Comfort? *World Dev.* 66, 707–718. https://doi.org/10.1016/j.worlddev.2014.09.028

Barelli, M., 2009. The Role of Soft Law in the International Legal System: The Case of the United Nations Declaration on the Rights of Indigenous Peoples. *Int. Comp. Law Q.* 58, 957–983. https://doi.org/10.1017/S0020589309001559

Bates, S., Clapton, J., Coren, E., 2007. Systematic maps to support the evidence base in social care. *Evid. Policy J. Res. Debate Pract.* 3, 539–551. https://doi.org/10.1332/174426407782516484

Boer, B., Hirsch, P., Johns, F., Saul, B., Scurrah, N., 2016. *The Mekong: A Socio-legal Approach to River Basin Development.* Routledge, Oxon.

Borde, R., Rasch, E.D., 2018. Internationalized Framing in Social Movements against Mining in India and the Philippines. *J. Dev. Soc.* 34, 195–218. https://doi.org/10.1177/0169796X18767504

Brad, A., Schaffartzik, A., Pichler, M., Plank, C., 2015. Contested territorialization and biophysical expansion of oil palm plantations in Indonesia. *Geoforum* 64, 100–111. https://doi.org/10.1016/j.geoforum.2015.06.007

Brooks, S., 2005. Corporate social responsibility and strategic management: the prospects for converging discourses. *Strateg. Change* 14, 401–411. https://doi.org/10.1002/jsc.731

Brunsma, D.L., Iyall Smith, K.E., Gran, B., 2019. *Sociology for Human Rights: Approaches for Applying Theories and Methods.* Routledge, Abingdon, Oxon.

Bünte, M., 2018. Building Governance from Scratch: Myanmar and the Extractive Industry Transparency Initiative. *J. Contemp. Asia* 48, 230–251. https://doi.org/10.1080/00472336.2017.1416153

Burkett, M., 2008. Just Solutions to Climate Change: A Climate Justice Proposal for a Domestic Clean Development Mechanism. *Buffalo Law Rev.* 56, 170–242.

Cambridge Dictionnary, 2020a. Conflict.

Cambridge Dictionnary, 2020b. Impact.

Cambridge Dictionnary, 2020c. Effect.

Cameron, P.D., Stanley, M.C., World Bank Group, 2017. *Oil, Gas, and Mining: A Sourcebook for Understanding the Extractive Industries.* World Bank Publications, Washington, DC.

Castillo, R.C.A., Alvarez-Castillo, F., 2009. The Law Is Not Enough: Protecting Indigenous Peoples' Rights against Mining Interests in the Philippines, in: Wynberg, R., Schroeder, D., Chennells, R. (Eds.), *Indigenous Peoples, Consent and Benefit Sharing: Lessons from the San-Hoodia Case.* Dordrecht and New York: Springer, pp. 271–284.

CEDAW Committee, 2016. General Recommendation No. 34 on the Rights of Rural Women. CEDAW/C/GC/34. https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf.

Chu, T.-W., 2017. Riparians versus the State in Southeast Asia: Human Security and Hydropower Struggles along the Mekong's Sesan Tributary. *Asian Surv.* 57, 1086–1109. https://doi.org/10.1525/as.2017.57.6.1086

Coderre-Proulx, M., Campbell, B., Mandé, I., 2016. *International Migrant Workers in the Mining Sector.* International Labour Organization, Geneva.

Coleman, L.M., 2015. Struggles, over rights: humanism, ethical dispossession and resistance. *Third World Q.* 36, 1060–1075. https://doi.org/10.1080/01436597.2015.1047193

Cotula, L., Berger, T., 2017. *Trends in Global Land Use Investment: Implications for Legal Empowerment.* IIED Land, Investment and Rights series, London.

Dawkins, E., André, K., Axelsson, K., Benoist, L., Swartling, Å.G., Persson, Å., 2019. Advancing sustainable consumption at the local government level: A literature review. *J. Clean. Prod.* 231, 1450–1462. https://doi.org/10.1016/j.jclepro.2019.05.176

Del Bene, D., Scheidel, A., Temper, L., 2018. More dams, more violence? A global analysis on resistances and repression around conflictive dams through co-produced knowledge. *Sustain. Sci.* 13, 617–633. https://doi.org/10.1007/s11625-018-0558-1

Dietz, K., 2018. Consultas populares mineras en Colombia: Condiciones de su realización y significados políticos. El caso de La Colosa. *Colomb. Int.* 93–117.

Dietz, K., Engels, B., 2017. Contested extractivism: actors and strategies in conflicts over mining. *ERDE – J. Geogr. Soc. Berl.* 148, 111–120.

FAO, 2016. *Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities (A Manual for Project Practitioners).* Food and Agriculture Organization of the United Nations.

Farris, M., 2010. The Sound of Falling Trees: Integrating Environmental Justice Principles into the Climate Change Framework for Reducing Emissions from Deforestation and Degradation (REDD). *Fordham Environ. Law Rev.* 20, 515–550.

First National People of Color Environmental Leadership Summit, 1991. Principles of Environmental Justice. www.ejnet.org/ej/

Frezzo, M., 2014. *The Sociology of Human Rights, First. ed.* Polity Press, Cambridge.

Global Witness, 2018. *At What Cost: Irresponsible Business and the Murder of Land and Environmental Defenders in 2017.* Global Witness, London.

Gough, D., Thomas, J., Oliver, S., 2012. Clarifying differences between review designs and methods. *Syst. Rev. 1.* https://doi.org/10.1186/2046-4053-1-28

Haddaway, N.R., Pullin, A.S., 2014. The Policy Role of Systematic Reviews: Past, Present and Future. *Springer Sci. Rev. 2,* 179–183. https://doi.org/10.1007/s40362-014-0023-1

Haddaway, N.R., Woodcock, P., Macura, B., Collins, A., 2015. Making literature reviews more reliable through application of lessons from systematic reviews. *Conserv. Biol.* 29, 1596–1605. https://doi.org/10.1111/cobi.12541

Horrocks-Taylor, J., 2018. Dirty Water, Muddied Politics: Hybridisation of Local and National Opposition to Kumtor Mine, Kyrgyzstan. *Land* 7. https://doi.org/10.3390/land7020042

ICMM, 2015. *Sustainable Development Framework: ICMM Principles.* ICMM, London.

Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), 2017. *Global Trends in Artisanal and Small-Scale Mining (ASM): A Review of Key Numbers and Issues.* IISD, Winnipeg.

International Council on Mining & Metals, 2013. *Position statement on indigenous peoples and mining.* ICMM, London.

International Labour Organization, 1989. *Indigenous and tribal peoples convention, C169.* International Labour Organization, Geneva.

James, K.L., Randall, N.P., Haddaway, N.R., 2016. A methodology for systematic mapping in environmental sciences. *Environ. Evid.* 5, 7. https://doi.org/10.1186/s13750-016-0059-6

Jasanoff, S., 2004. Heaven and Earth: The Politics of Environmental Images, in: *Earthly Politics. Local and Global in Environmental Governance.* MIT Press, Cambridge, MA, pp. 31–52.

Jensen, S.L.B., Corkery, A., Donald, K., 2015. *Realizing rights through the Sustainable Development Goals: the role of national human rights institutions.* The Danish Institute for Human Rights.

Keating, N.B., 2013. Kuy alterities: The struggle to conceptualise and claim Indigenous land rights in neoliberal Cambodia. *Asia Pac. Viewp.* 54, 309–322. https://doi.org/10.1111/apv.12026

Khagram, S., Riker, J.V., Sikkink, K., 2002. *Restructuring World Politics: Transnational Social Movements, Networks, and Norms, NED-New edition.* ed. University of Minnesota Press.

Khoday, K., Natarajan, U., 2012. Fairness and International Environmental Law from Below: Social Movements and Legal Transformation in India. *Leiden J. Int. Law* 25, 415–441. https://doi.org/10.1017/S0922156512000118

Kleinfeld, J., 2016. The Double Life of International Law: Indigenous Peoples and Extractive Industries. *Harv. Law Rev.* 129, 1755–1778.

Kumar, K., 2014. The sacred mountain: Confronting global capital at Niyamgiri. *Geoforum* 54, 196–206. https://doi.org/10.1016/j.geoforum.2013.11.008

Lahiri-Dutt, K., 2017. Resources and the Politics of Sovereignty: The Moral and Immoral Economies of Coal Mining in India. *J. South Asian Stud.* 40, 792–809. https://doi.org/10.1080/00856401.2017.1370211

Leifsen, E., Gustafsson, M.-T., Guzmán-Gallegos, M., Schilling-Vacaflor, A., 2017. New mechanisms of participation in extractive governance: between technologies of governance and resistance work. *Third World Q.* 38, 1043–1057. https://doi.org/10.1080/01436597.2017.1302 329

Leitner, H., Sheppard, E., Sziarto, K.M., 2008. The Spatialities of contentious politics. *Trans. Inst. Br. Geogr.* 33, 157–172.

Lund, R., Panda, S.M., 2011. New activism for political recognition: Creation and expansion of spaces by tribal women in Odisha, India. *Gend. Technol. Dev.* 15, 75–99. https://doi.org/10.1177/097185241101500104

McCright, A.M., Dunlap, R.E., 2000. Challenging Global Warming as a Social Problem: An Analysis of the Conservative Movement's Counter-claims. *Soc. Probl.* 47, 499–522. https://doi.org/10.2307/3097132

McDuie-Ra, D., Kikon, D., 2016. Tribal communities and coal in Northeast India: The politics of imposing and resisting mining bans. *Energy Policy* 99, 261–269.

Meyer, D.S., 2004. Protest and Political Opportunities. *Annu. Rev. Sociol.* 30, 125–145. https://doi.org/10.1146/annurev.soc.30.012703.110545

Miller, H., 2014. From 'rights-based' to 'rights-framed' approaches: a social constructionist view of human rights practice, in: *Sociology and Human Rights: New Engagements*. Routledge, pp. 113–129.

Morgan, R., 2009. Introduction: Human rights research and the social sciences, in: Morgan, R., Turner, B.S. (Eds.), *Interpreting Human Rights: Social Science Perspectives*. Routledge, London, pp. 1–22.

Morgan, R., Turner, B.S., 2009. *IInterpreting Human Rights: Social Science Perspectives*. Routledge, London.

National Assembly of Cambodia, 2001. Land Law of Cambodia, NS/RKM/0801/14.

Newell, P., Wheeler, J. (Eds.), 2006. *Rights, Resources and the Politics of Accountability, Claiming Citizenship*. Zed Books, London.

O'Connell, P., 2018. On the Human Rights Question. *Hum. Rights Q.* 962.

OECD, 2011. *OECD Guidelines for Multinational Enterprises*. OECD, Paris, France.

Oskarsson, P., 2013. Dispossession by Confusion from Mineral-Rich Lands in Central India. *South Asia J. South Asian Stud.* 36, 199–212. https://doi.org/10.1080/00856401.2012.739597

Oskarsson, P., Bedi, H.P., 2018. Extracting environmental justice: Countering technical renditions of pollution in India's coal industry. *Extr. Ind. Soc.* 5, 340–347. https://doi.org/10.1016/j.exis.2018.05.003

Parliament of India, 2006. *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, No. 2 of 2007.* Parliament of India, New Delhi.

Pellow, D.N., Brulle, R.J. (Eds.), 2005. *Power, Justice, and the Environment: A Critical Appraisal of the Environmental Justice Movement, Urban and Industrial Environments.* The MIT Press, Cambridge.

Piron, L.-H., 2005. *Rights-based Approaches and Bilateral Aid Agencies: More Than a Metaphor? (No. IDS Bulletin 36.1), Developing Rights?* Institute of Development Studies.

Piron, L.-H., 2004. *Rights-Based Approaches to Social Protection* (Background paper). Overseas Development Institute.

Popay, jennie, Roberts, H., Sowden, A., Petticrew, M., Arai, L., Rodgers, M., Britten, N., 2006. *Guidance on the conduct of narrative synthesis in systematic Reviews. A Product from the ESRC Methods Programme. Version 1.* Economic and Social Research Council, Swindon.

Rasch, E.D., Köhne, M., 2016. Micropolitics in Resistance: The Micropolitics of Large-Scale Natural Resource Extraction in South East Asia. *Soc. Nat. Resour.* 29, 479–492. https://doi.org/10.1080/089 41920.2015.1086458

Redhead, R., 2015. *Exercising Human Rights: Gender, Agency and Practice, Routledge Advances in International Relations and Global Politics*. Routledge, New York.

Republic of the Philippines, 1997. *An act to recognise, protect and promote the rights of indigenous cultural communities/indigenous peoples, creating a national commission on indigenous peoples, establishing implementing mechanisms, appropriating funds therefor, and for other purposes* (Republic Act No 8371). Congress of the Philippines, Manila.

Royal Government of Cambodia, 2009. Sub Decree on Procedures of Registration of Land of Indigenous Communities, 83 ANK,BK.

Sawyer, S., Gomez, E., 2008. *Transnational Governmentality and Resource Extraction. Indigenous Peoples, Multinational Corporations, Multilateral Institutions and the State*. United Nations Research Institute for Social Development, Geneva.

Schippers, T., 2010. Securing Land Rights through Indigenousness: A Case from the Philippine Cordillera Highlands. *Asian J. Soc. Sci.* 38, 220–238. https://doi.org/10.1163/156853110x490917

Sethi, S.P., Lowry, D.B., Veral, E.A., Shapiro, H.J., Emelianova, O., 2011. Freeport-McMoRan Copper & Gold, Inc.: An Innovative Voluntary Code of Conduct to Protect Human Rights, Create Employment Opportunities, and Economic Development of the Indigenous People. *J. Bus. Ethics* 103, 1–30. https://doi.org/10.1007/s10551-011-0847-4

Silva, E., 2016. Patagonia, without Dams! Lessons of a David vs. Goliath campaign. *Extr. Ind. Soc.* 3, 947–957. https://doi.org/10.1016/j.exis.2016.10.004

Sitthikriengkrai, M., Porath, N., 2018. Contesting Medical Treatment: Lead-Pollution and the Karen of Klity Creek (Kanchanaburi, Thailand). *Anthropos* 113, 81–92. https://doi.org/10.5771/0257-9774-2018-1-81

Spencer, R., 2018. CSR for Sustainable Development and Poverty Reduction? Critical Perspectives from the Anthropology of Development, in: Brueckner, M., Spencer, R., Paull, M. (Eds.), *Disciplining the Undisciplined? Perspectives from Business, Society and Politics on Responsible Citizenship, Corporate Social Responsibility and Sustainability, CSR, Sustainability, Ethics & Governance*. Springer, Dordrecht, pp. 73–87.

Spiegel, S., 2016. Land and 'space' for regulating artisanal mining in Cambodia: Visualizing an environmental governance conundrum in contested territory. *Land Use Policy* 54, 559–573. https://doi.org/10.1016/j.landusepol.2016.03.015

Stammers, N., 1995. A critique of social approaches to human rights. *Hum. Rights Q.* 17, 488–508.

Sweetman, C., Ezpeleta, M., 2017. Introduction: Natural Resource Justice. *Gend. Dev.* 25, 353–366. https://doi.org/10.1080/13552074.2017.1395138

Tang-Lee, D., 2016. Corporate social responsibility (CSR) and public engagement for a Chinese state-backed mining project in Myanmar – Challenges and prospects. *Resour. Policy* 47, 28–37. https://doi.org/10.1016/j.resourpol.2015.11.003

Tarrow, S.G., 2011. *Power in Movement: Social Movements and Contentious Politics,* Cambridge Studies in Comparative Politics. Cambridge University Press, New York.

Taylor, V., Van dyke, N., 2007. *"Get up, Stand up": Tactical Repertoires of Social Movements*. Blackwell Publishing Ltd. https://doi.org/10.1002/9780470999103.ch12

Temper, L., Martinez-Alier, J., 2013. The god of the mountain and Godavarman: Net Present Value, indigenous territorial rights and sacredness in a bauxite mining conflict in India. *Ecol. Econ.* 96, 79–87. https://doi.org/10.1016/j.ecolecon.2013.09.011

The Interlaken Group and the Rights and Resources Initiative, 2015. Respecting Land and Forest Rights: A Guide for Companies. The Interlaken Group and RRI, Washington, D.C.

Tsosie, R., 2007. Indigenous People and Environmental Justice: The Impact of Climate Change. *Univ. Colo. Law Rev.* 78, 1625–1677.

UN General Assembly, 2007a. *United Nations Declaration on the Rights of Indigenous Peoples,* A/RES/61/295. UN General Assembly, New York.

UN General Assembly, 2007b. *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts*. United Nations General Assembly, Human Rights Council.

UN General Assembly, 1979. *Convention on the elimination of all forms of discrimination against women (CEDAW),* UNTS, vol. 1249, p. 13. UN General Assembly, New York.

United Nations General Assembly, 2015. *Transforming Our World: The 2030 Agenda for Sustainable Development,* A/RES/70/1. United Nations General Assembly, New York.

van Isschot, L., 2015. *The Social Origins of Human Rights: Protesting Political Violence in Colombia's Oil Capital, 1919–2010*. UW Press.

Voluntary Principles on Security and Human Rights [WWW Document], 2000. URL https://www.voluntaryprinciples.org/what-are-the-voluntary-principles (accessed 9.27.19).

Zoomers, A., 2010. Globalisation and the foreignisation of space: seven processes driving the current global land grab. *J. Peasant Stud.* 37, 429–447. https://doi.org/10.1080/03066151003595325

Supplementary Information

A. Methods description

1. Objectives and design of the study

The objective of this study is to identify what rights-based claims have been documented in the context of resource extraction and the strategies used by rights claimants. The study initially aimed to explore this issue globally, and therefore, the protocol (see Supplementary Information B) and literature search string were designed accordingly. However, due to resource constraints, the scope was narrowed down to the South and Southeast Asia regions, where rights-based claims in the context of extractive industries have received less attention as compared to other regions, such as the Arctic and Latin America.

The primary research question for the review was: in South and Southeast Asia, how do local actors affected by natural resource extraction make rights-based claims? This review also explored the following secondary questions:

- What types of rights are being claimed, by whom, and where?
- Which strategies are used by rights claimants?
- What are the factors that enable/impede the making of rights-based claims?
- What effects do rights-based claims have and why?
- What have been the responses of various stakeholders to these claims?

A literature search was conducted to identify potentially relevant studies to answer the review questions. The primary question guided the elaboration of the search string. The reviewing team included three researchers at the Stockholm Environment Institute (SEI). Two of them contributed to the analysis of the relevant literature, together with another colleague at SEI.

The method applied in this study incorporated some of the principles and methodological steps used in systematic reviews. Indeed, to increase transparency and replicability of the study, we reproduce below in detail the methodology that was applied. We also sought to reduce bias and increase consistency by elaborating an a priori protocol and by performing a consistency check before starting the screening process (see Supplementary Information A(4)).

2. Search protocol

The first step of the review was to design a literature search protocol. The protocol is available in Supplementary Information B.

3. Literature search

The literature search was conducted in February 2019. It included only academic literature. First, a search string was built using a combination of key search terms relating to a) rights and rights-based claims; b) conflict; and c) extractive industries. Before using the search string, five academic papers meeting the review's selection criteria were identified through a keyword search on the EBSCO search engine. These "test" papers helped to determine appropriate words to include in the search string so that it would yield relevant results.

The search string was then tested in the Scopus and Web of Science databases to verify that the search string identified these "test" papers. The search string was then applied to two computerized databases: Scopus and Web of Science. Boolean operators, such as "OR" and "AND", were used to look for search terms in sets. In addition, to refine the search, limiters – selected according to the inclusion and exclusion criteria – were used. These referred to language (specifying only English, French, and Spanish), discipline, publication date, and the specific terms to be excluded.

Table 1. Search string

Database	Date	Search details
Web of Science	24.02.19	You searched for: (TS=((extractivism OR extractivist OR mine OR mines OR mining OR (extract* AND (industr* OR fossil fuel* OR natural resource*)) OR fracking OR neo-extractivis* OR natural resource development OR resource development OR mineral resources) AND (altercation* OR dispute OR struggl* OR fight OR confront* OR quarrel* OR protest* OR resist* OR tension* OR negotiat* OR dispossess* OR contest* OR war$ OR hostil* OR conflict* OR challeng* OR clash* OR dissent* OR oppos* OR friction* OR disagree* OR discord OR battl* OR breach OR frustration OR obstacle OR movement*) AND (right* OR jurisprudence OR just* OR claim* OR social license OR local empowerment))) AND LANGUAGE: (English OR French OR Spanish)
		Refined by: [excluding] WEB OF SCIENCE CATEGORIES: (GEOCHEMISTRY GEOPHYSICS OR SOIL SCIENCE OR MICROBIOLOGY OR ENERGY FUELS OR GEOGRAPHY PHYSICAL OR COMPUTER SCIENCE ARTIFICIAL INTELLIGENCE OR ENGINEERING INDUSTRIAL OR ENGINEERING ENVIRONMENTAL OR ENGINEERING MECHANICAL OR GREEN SUSTAINABLE SCIENCE TECHNOLOGY OR MECHANICS OR BIOCHEMISTRY MOLECULAR BIOLOGY OR NURSING OR GEOSCIENCES MULTIDISCIPLINARY OR COMPUTER SCIENCE INFORMATION SYSTEMS OR CONSTRUCTION BUILDING TECHNOLOGY OR ENGINEERING ELECTRICAL ELECTRONIC OR MARINE FRESHWATER BIOLOGY OR GEOLOGY OR ENGINEERING CHEMICAL OR AGRONOMY OR IMMUNOLOGY OR ENGINEERING GEOLOGICAL OR NEUROSCIENCES OR COMPUTER SCIENCE INTERDISCIPLINARY APPLICATIONS OR INFORMATION SCIENCE LIBRARY SCIENCE OR ENGINEERING BIOMEDICAL OR PHARMACOLOGY PHARMACY OR CHEMISTRY APPLIED OR OPERATIONS RESEARCH MANAGEMENT SCIENCE OR THERMODYNAMICS OR TOXICOLOGY OR COMPUTER SCIENCE THEORY METHODS OR MINERALOGY OR INSTRUMENTS INSTRUMENTATION OR MINING MINERAL PROCESSING OR ENGINEERING MULTIDISCIPLINARY OR CHEMISTRY PHYSICAL OR VETERINARY SCIENCES OR ENGINEERING MANUFACTURING OR METEOROLOGY ATMOSPHERIC SCIENCES OR SURGERY OR CHEMISTRY ANALYTICAL OR ZOOLOGY OR GENETICS HEREDITY OR ENGINEERING CIVIL OR MEDICAL INFORMATICS OR MEDICINE GENERAL INTERNAL OR METALLURGY METALLURGICAL ENGINEERING OR BIOTECHNOLOGY APPLIED MICROBIOLOGY OR INFECTIOUS DISEASES OR COMPUTER SCIENCE SOFTWARE ENGINEERING OR COMPUTER SCIENCE HARDWARE ARCHITECTURE OR BIOCHEMICAL RESEARCH METHODS OR MEDICINE RESEARCH EXPERIMENTAL OR AGRICULTURAL ENGINEERING OR POLYMER SCIENCE OR PLANT SCIENCES OR ELECTROCHEMISTRY OR AUTOMATION CONTROL SYSTEMS OR PHYSICS APPLIED OR FOOD SCIENCE TECHNOLOGY OR OCEANOGRAPHY) AND [excluding] WEB OF SCIENCE CATEGORIES: (MATERIALS SCIENCE MULTIDISCIPLINARY OR ERGONOMICS OR ARCHAEOLOGY OR PSYCHOLOGY EXPERIMENTAL OR ENDOCRINOLOGY METABOLISM OR CHEMISTRY MULTIDISCIPLINARY OR ONCOLOGY OR RESPIRATORY SYSTEM OR CARDIAC CARDIOVASCULAR SYSTEMS OR MATHEMATICAL COMPUTATIONAL BIOLOGY OR NUCLEAR SCIENCE TECHNOLOGY OR PARASITOLOGY OR MATHEMATICS APPLIED OR ENGINEERING AEROSPACE OR NUTRITION DIETETICS OR OPTICS OR TROPICAL MEDICINE OR AGRICULTURE DAIRY ANIMAL SCIENCE OR HORTICULTURE OR UROLOGY NEPHROLOGY OR OBSTETRICS GYNECOLOGY OR PHYSICS MULTIDISCIPLINARY OR GERIATRICS GERONTOLOGY OR BIOLOGY OR ARCHITECTURE OR RADIOLOGY NUCLEAR MEDICINE MEDICAL IMAGING OR COMPUTER SCIENCE CYBERNETICS OR PEDIATRICS OR CLINICAL NEUROLOGY OR EMERGENCY MEDICINE OR TRANSPORTATION SCIENCE TECHNOLOGY OR INTEGRATIVE COMPLEMENTARY MEDICINE OR MEDICINE LEGAL) AND [excluding] WEB OF SCIENCE CATEGORIES: (MYCOLOGY OR CHEMISTRY ORGANIC OR MATERIALS SCIENCE CERAMICS OR OPHTHALMOLOGY OR ASTRONOMY ASTROPHYSICS OR GASTROENTEROLOGY HEPATOLOGY OR LIMNOLOGY OR MATERIALS SCIENCE PAPER WOOD OR MATHEMATICS INTERDISCIPLINARY APPLICATIONS OR EVOLUTIONARY BIOLOGY OR CHEMISTRY MEDICINAL OR ENTOMOLOGY OR MATERIALS SCIENCE COMPOSITES OR PALEONTOLOGY OR PSYCHOLOGY BIOLOGICAL OR SPECTROSCOPY OR VIROLOGY OR ACOUSTICS OR ANESTHESIOLOGY OR AUDIOLOGY SPEECH LANGUAGE PATHOLOGY OR DEVELOPMENTAL BIOLOGY OR ENGINEERING PETROLEUM OR MEDICAL LABORATORY TECHNOLOGY OR ORTHOPEDICS OR PSYCHOLOGY CLINICAL OR DENTISTRY ORAL SURGERY MEDICINE OR ENGINEERING OCEAN) AND [excluding] WEB OF SCIENCE CATEGORIES: (GERONTOLOGY OR HEMATOLOGY OR PERIPHERAL VASCULAR DISEASE OR CELL BIOLOGY OR CRITICAL CARE MEDICINE OR LITERATURE ROMANCE OR MATERIALS SCIENCE BIOMATERIALS OR MATERIALS SCIENCE CHARACTERIZATION TESTING OR MUSIC OR OTORHINOLARYNGOLOGY OR PATHOLOGY OR PHYSICS ATOMIC MOLECULAR CHEMICAL OR PHYSICS CONDENSED MATTER OR PHYSICS FLUIDS PLASMAS OR PHYSICS NUCLEAR OR PSYCHOLOGY DEVELOPMENTAL OR CELL TISSUE ENGINEERING OR CHEMISTRY INORGANIC NUCLEAR OR DERMATOLOGY OR ENGINEERING MARINE) AND [excluding] DOCUMENT TYPES: (EDITORIAL MATERIAL OR REPRINT OR MEETING ABSTRACT OR BOOK REVIEW OR CHRONOLOGY OR NOTE OR REVIEW OR LETTER)
		Timespan: All years. Indexes: SCI-EXPANDED, SSCI, A&HCI, CPCI-S, CPCI-SSH, ESCI.

Database	Date	Search details
Scopus	24.02.19	TITLE-ABS-KEY（（ extractivism OR extractivist OR mine OR mines OR mining OR（ extract* AND（ industr* OR "fossil fuel*" OR "natural resource*"）） OR fracking OR neo-extractivis* OR "natural resource development" OR "resource development" OR "mineral resources"） AND（ altercation* OR dispute OR struggl* OR fight OR confront* OR quarrel* OR protest* OR resist* OR tension* OR negotiat* OR dispossess* OR contest* OR war$ OR hostil* OR conflict* OR challeng* OR clash* OR dissent* OR oppos* OR friction* OR disagree* OR discord OR battl* OR breach OR frustration OR obstacle OR movement*） AND（ right* OR jurisprudence OR just* OR claim* OR "social license" OR "local empowerment"）） AND（ LIMIT-TO（ SUBJAREA , "EART"） OR LIMIT-TO（ SUBJAREA , "SOCI"） OR LIMIT-TO（ SUBJAREA , "ENVI"） OR LIMIT-TO（ SUBJAREA , "ARTS"） OR LIMIT-TO（ SUBJAREA , "AGRI"） OR LIMIT-TO（ SUBJAREA , "ENER"） OR LIMIT-TO（ SUBJAREA , "BUSI"） OR LIMIT-TO（ SUBJAREA , "ECON"） OR LIMIT-TO（ SUBJAREA , "DECI"） OR LIMIT-TO（ SUBJAREA , "MULT"） OR LIMIT-TO（ SUBJAREA , "PSYC"） OR LIMIT-TO（ SUBJAREA , "HEAL"） OR LIMIT-TO（ SUBJAREA , "Undefined"）） AND（ EXCLUDE（ DOCTYPE , "re"） OR EXCLUDE（ DOCTYPE , "sh"） OR EXCLUDE（ DOCTYPE , "cr"） OR EXCLUDE（ DOCTYPE , "no"） OR EXCLUDE（ DOCTYPE , "ed"） OR EXCLUDE（ DOCTYPE , "ab"） OR EXCLUDE（ DOCTYPE , "er"）） AND（ EXCLUDE（ SUBJAREA , "ENGI"） OR EXCLUDE（ SUBJAREA , "COMP"） OR EXCLUDE（ SUBJAREA , "MATH"） OR EXCLUDE（ SUBJAREA , "CHEM"） OR EXCLUDE（ SUBJAREA , "BIOC"） OR EXCLUDE（ SUBJAREA , "MATE"） OR EXCLUDE（ SUBJAREA , "CENG"） OR EXCLUDE（ SUBJAREA , "PHYS"） OR EXCLUDE（ SUBJAREA , "IMMU"） OR EXCLUDE（ SUBJAREA , "PHAR"） OR EXCLUDE（ SUBJAREA , "NEUR"） OR EXCLUDE（ SUBJAREA , "NURS"） OR EXCLUDE（ SUBJAREA , "VETE"）） AND（ LIMIT-TO（ LANGUAGE , "English"） OR LIMIT-TO（ LANGUAGE , "Spanish"） OR LIMIT-TO（ LANGUAGE , "French"））

4. Screening process and review criteria

The screening process was performed in three steps. First, duplicates from the database search were automatically removed using Rayyan software. We then screened the remaining items by applying predetermined selection and exclusion criteria to the references' titles and, subsequently, abstracts. A few additional duplicates were identified during the screening process and were excluded.

Since three researchers took part in the screening process and items were not double-screened, a consistency check was performed to reduce the risk of bias and inconsistency across the team. The three researchers all screened the same 200 titles. Discrepancies were then discussed among all team members, and the criteria were further specified on this basis – all before the broader screening process began. For all sources, full-text articles were retrieved when eligibility could not be determined from the abstract alone. In a third round, full-text papers were assessed according to the eligibility criteria. When records could not be accessed, they were classified as "non-retrievable."

The following inclusion criteria were applied to the references captured by the search.

- Type of document:
  – Include: articles, proceeding papers, conference paper, PhD thesis, book chapter, documented court cases
  – Exclude: review papers, book reviews, notes, editorial

- Type of study:
  – Include: empirical data
  – Exclude: theoretical/abstract papers

- Time:
  – Include: 20th and 21st century cases (from 1950 on)

- Context:
  – Include: extractive industry (prospective, ongoing, or declining) – oil, gas, and mineral products, and semi-precious and precious stones

- Language:
  - Include: English, French, Spanish

- Topic relevance:
  - Include: local actors claiming rights explicitly
  - Include: cases where local actors might exercise rights in an environmentally unfriendly way, and cases where rights of nature are being claimed by local actors

5. Data extraction and synthesis

Data extraction was performed by three researchers single-coding through an Excel coding form. These codes allowed for a detailed characterization of the available literature on rights-based claims in the context of conflict over extractive industries' activities in South and Southeast Asia. The form was designed in accordance with the research questions and review protocol to identify the studies' characteristics in terms of the geographical and resource nature of the documented case, and the information related to rights-based claims.

The framework consists of three sets of codes. The first one aims to retrieve bibliographic information about the literature reviewed. The second one relates to the nature of the cases documented, including geography, phase of extraction and type(s) of resource extracted. The last set of codes captures information about rights-based claims, rights claimants, rights claiming strategies, enablers and obstacles to rights-based claims, and responses to these claims. Claiming channels were originally recorded separately from claiming strategies; however, given the significant overlap between these, we decided to address them together in the narrative synthesis. A few adjustments were made to the original framework developed for the protocol, such as the addition of two codes to identify papers that include a gender or Indigenous Peoples dimension.

Table 2. Coding framework

Bibliographic information	Title	
	Author(s)	
	Year of publication	
	Language	
	DOI	
	Publication outlet	
Cases documented	Country	
	Type of extractive industry	Resource type
		Stage of extraction: prospective, ongoing, past
	Multiple cases in one paper	Open category
Rights claimant		Open category
Rights-based claim	Type(s) of right	Open category
	Claiming channel	Open category
	Claiming strategy	Open category
	Multiple strategies	Yes/No
	Articulation of strategies if they are multiple ones	Simultaneous or successive
Circumstances of R-B claim	Circumstances	Open category
	Barriers to rights-based claims	Open category
	Enablers to rights-based claims	Open category
Effects of R-B claim(s)	Effects (incl. responses)	Open category
	Why of effects	Open category
Others	Gender dimension	Yes/No
	Indigenous Peoples dimension	Yes/No

6. Results

We collected 11,323 papers through the initial literature search in two scientific databases (Scopus and Web of Science). After removing 995 duplicates and screening remaining titles, 3,899 appeared as potentially relevant. At this stage, we decided to include only papers that studied cases that occurred from the year 1950 onwards. After abstract screening, 982 papers were deemed as potentially relevant. At this moment in the review process, the geographical scope of the study was narrowed to South and Southeast Asia. After full paper screening, 20 papers were included in the review.

7. Methodological limitations

In this review, our limited resources did not allow for double-screening of the initial search results. The consistency test we performed beforehand aimed to reduce the risk of bias during the screening process, but double-screening would have been more effective in this regard. Given resource constraints, we could not include grey literature in this review. Therefore, in the future, our study could be strengthened by updating the literature base and widening the search for non-academic literature through web searches and through the possible inclusion of news articles. Finally, as this analysis kept a local lens on explicit rights-based claims, there may be additional insights to be drawn from the literature, both academic and grey, that describes and analyses rights-based claim-making across geographies and on behalf of rights holders.

8. Full list of publications included for data extraction

1. Asriani, Desintha D. "Training Instruments for Environmental Justice for Women in Indonesia: A Community Development Project of ASEAN Study Centre." *Asian Journal of Women's Studies* 22, no. 1 (March 2016). https://doi.org/10.1080/12259276.2015.1133165.

2. Assavarak, Passanan. "Constructed Identity and Community Self-Expression to Perceive Human Security; Case Study of Klity Village, Kanchanaburi Province, Thailand." *Mediterranean Journal of Social Sciences* 3, no. 3 (September 2012). https://doi.org/10.5901/mjss.2012.v3n3p239.

3. Aytin, Andrew. "A Social Movements' Perspective on Human Rights Impact of Mining Liberalization in the Philippines." *NEW SOLUTIONS: A Journal of Environmental and Occupational Health Policy* 25, no. 4 (2016): 535–58.

4. Bandyopadhyay, Jayanta, and Vandana Shiva. "The Conflict Over Limestone Quarrying in Doon Valley, Dehradun, India." *Environmental Conservation* 12, no. 2 (ed 1985): 131–39. https://doi.org/10.1017/S037689290001554X.

5. Borde, Radhika, and Elisabet Dueholm Rasch. "Internationalized Framing in Social Movements against Mining in India and the Philippines." *Journal of Developing Societies* 34, no. 2 (2018): 195–218. https://doi.org/10.1177/0169796X18767504.

6. Bünte, M. "Building Governance from Scratch: Myanmar and the Extractive Industry Transparency Initiative." *Journal of Contemporary Asia* 48, no. 2 (15 2018): 230–51. https://doi.org/10.1080/00472336.2017.1416153.

7. Castillo, Rosa Cordillera A., and Fatima Alvarez-Castillo. "The Law Is Not Enough: Protecting Indigenous Peoples' Rights against Mining Interests in the Philippines." In *Indigenous Peoples, Consent and Benefit Sharing: Lessons from the San-Hoodia Case,* edited by Rachel Wynberg, Doris Schroeder, and Roger Chennells, 271–84. Dordrecht and New York: Springer (2009).

8. Lund, R., and S.M Panda. "New Activism for Political Recognition: Creation and Expansion of Spaces by Tribal Women in Odisha, India." *Gender, Technology and Development* 15, no. 1 (01 2011): 75–99. https://doi.org/10.1177/097185241101500104.

9.   Keating, Neal B. "Kuy Alterities: The Struggle to Conceptualise and Claim Indigenous Land Rights in Neoliberal Cambodia." *Asia Pacific Viewpoint* 54, no. 3 (December 2013): 309–22. https://doi.org/10.1111/apv.12026.

10. Khoday, Kishan, and Usha Natarajan. "Fairness and International Environmental Law from Below: Social Movements and Legal Transformation in India." *Leiden Journal of International Law* 25 (2012): 415–41. https://doi.org/10.1017/S0922156512000118.

11. Kumar, Kundan. "The Sacred Mountain: Confronting Global Capital at Niyamgiri." *Geoforum* 54 (2014): 196–206. https://doi.org/10.1016/j.geoforum.2013.11.008.

12. McDuie-Ra, Duncan, and Dolly Kikon. "Tribal Communities and Coal in Northeast India: The Politics of Imposing and Resisting Mining Bans." *Energy Policy* 99 (2016): 261–69.

13. Oskarsson, Patrik. "Dispossession by Confusion from Mineral-Rich Lands in Central India." *South Asia: Journal of South Asian Studies* 36, no. 2 (2013): 199–212. https://doi.org/10.1080/00856401.2012.739597.

14. Rasch, Elisabet Dueholm, and Michiel Köhne. "Micropolitics in Resistance: The Micropolitics of Large-Scale Natural Resource Extraction in South East Asia." *Society & Natural Resources* 29, no. 4 (April 2, 2016): 479–92. https://doi.org/10.1080/08941920.2015.1086458.

15. Schippers, Titia. "Securing Land Rights through Indigenousness: A Case from the Philippine Cordillera Highlands." *Asian Journal of Social Science* 38, no. 2 (2010): 220–38. https://doi.org/10.1163/156853110x490917.

16. Sethi, S. Prakash, David B. Lowry, Emre A. Veral, H. Jack Shapiro, and Olga Emelianova. "Freeport-McMoRan Copper & Gold, Inc.: An Innovative Voluntary Code of Conduct to Protect Human Rights, Create Employment Opportunities, and Economic Development of the Indigenous People." *Journal of Business Ethics* 103, no. 1 (2011): 1–30. https://doi.org/10.1007/s10551-011-0847-4.

17. Sitthikriengkrai, Malee, and Nathan Porath. "Contesting Medical Treatment: Lead-Pollution and the Karen of Klity Creek (Kanchanaburi, Thailand)." *Anthropos* 113 (2018): 81–92. https://doi.org/10.5771/0257-9774-2018-1-81.

18. Spiegel, Samuel. "Land and 'Space' for Regulating Artisanal Mining in Cambodia: Visualizing an Environmental Governance Conundrum in Contested Territory." *Land Use Policy* 54 (2016): 559–73. https://doi.org/10.1016/j.landusepol.2016.03.015.

19. Tang-Lee, Diane. "Corporate Social Responsibility (CSR) and Public Engagement for a Chinese State-Backed Mining Project in Myanmar – Challenges and Prospects." *Resources Policy* 47 (2016): 28–37. https://doi.org/10.1016/j.resourpol.2015.11.003.

20. Temper, Leah, and Joan Martinez-Alier. "The God of the Mountain and Godavarman: Net Present Value, Indigenous Territorial Rights and Sacredness in a Bauxite Mining Conflict in India." *Ecological Economics* 96 (2013): 79–87. https://doi.org/10.1016/j.ecolecon.2013.09.011.

B. Review protocol

Background and context

The rights of people in natural resources are increasingly acknowledged under international law, and the purview of these rights continues to expand. Key international treaties such as Convention 169 on Indigenous and Tribal Peoples (ILO 1989) and the Convention on the Elimination of All Forms of Discrimination against Women (UN General Assembly 1979), or declarations such as the United Nations Declaration on the Rights of Indigenous Peoples (UN General Assembly 2007a) entail some form of positive obligations for states in the context of human rights in relation to resource extraction.

While companies are not directly the subjects of public international law, a large number of international guidelines to support private sector engagement with rights have also been developed. Examples include the Interlaken Group and Rights and Resources Initiative's "Respecting Land and Forest Rights: A Guide for Companies" (2015), the Voluntary Principles on Security and Human Rights (2000), and the International Council on Mining and Metals 10 Principles (2015, revised). These texts, and others like them, are expected to protect land rights and promote human rights.

At the global level, countries have also increasingly recognized the importance of rights for development. The 2030 Agenda for Sustainable Development, for instance, strongly reflects human rights principles and standards (Jensen et al. 2015), and clearly points to the role of rights in natural resources for inclusive development (e.g., Goals 1.4, 2.3, 5.a) (United Nations General Assembly 2015).

Despite global efforts to recognize and protect rights related to natural resource development, in practice little has improved (Cotula and Berger 2017). Multiple factors contribute to explaining this situation, including practices that, purposefully or not, impede the effective implementation of rights. These include a multitude of crucial issues such as increased persecution of environmental defenders, conflicts among competing rights, and inequitable consequences of land tenure programmes, such as land grabbing and loss of livelihoods (Cotula and Berger 2017; Del Bene, Scheidel and Temper 2018; Global Witness 2018).

Dovetailing with the popularization of resource rights in policies and public discourse, research has paid growing attention to how different actors engage with such rights (Avci et al. 2010; Bünte 2018; Horrocks-Taylor 2018). The focus of these studies has often been determined by the activities of the most influential resource exploiting industries and the types of issues that people experience. In South and Southeast Asia, the study area of this working paper, the existing academic literature has concentrated primarily on the effects of hydropower development and how social actors mobilize rights to counter new development projects (see e.g., Boer et al. 2016; Chu 2017). Much less attention has been paid to how rights-based claims are made in the mining sector, the circumstances that underlie these claims, and the effects of these efforts. The effects of rights-based claims include how national governments and private mining companies respond to rights-based claims, and whether these responses function to hamper or delay the realization and implementation of rights.

The objective of this study is to assess global trends regarding rights-based claims in the context of struggles around prospective or operating extractive industry activities. This is a social science assessment of how key actors have operationalized resource rights in complex national and local situations. Here, we take a constructionist approach to rights, i.e. conceiving of rights as socially constructed discursive "devices" whose definition is part, and reflective, of the struggle over material resources and entitlements.

Review questions

How do local actors affected by natural resource extraction make rights-based claims?

- What types of rights are being claimed, by whom, and where?
- Which channels and claiming strategies are used by rights claimants?
- What are the circumstances that enable/impede the making of rights-based claims?
- What effects do rights-based claims have and why?
- What have been the responses of various stakeholders to these claims?

Literature search strategy

Population	Intervention	Context	
Local actors affected by current or potential extractive industry activities	Claiming rights	Situation of conflict over (operating or prospecting) extractive industry activities	
Not included (we want to avoid excluding actors)	Right* Jurisprudence Justice Claim Social license Local empowerment	altercation, dispute, struggl*, fight*, confront*, quarrel, protest*, resist*, tension*, negotiat*, dispossess*, contest*, war, hostil*, clash*, dissent, oppos*, friction, disagree*, discord, battle, frustration, obstacle, conflict, movement	extractive*, extractivis*, mining, "mineral extraction", "fossil fuel production", fossil fuel extraction*, fracking, "extractive industry", "extractive industries", neo-extractivis*, "natural resource development" "resource development", "natural resource extraction"

Definitions

- **Conflict:** active disagreement between people with opposing opinions or principles (Cambridge Dictionnary, 2020a)
- **Extractive industries:** production of oil and gas (in their different forms, incl. heavy oil, fracking, etc.), as well as mineral extraction (Cameron et al., 2017)
- **Local actors:** those whose livelihoods, health, or homes are based at or are threatened by the extractive industry
- **Impacted:** being strongly influenced by someone or something (Cambridge Dictionnary, 2020b)
- **Effect:** the result of a particular influence (Cambridge Dictionnary, 2020c)

Search string

(extractivism OR extractivist OR mine OR mines OR mining OR (extract* AND (industr* OR fossil fuel* OR natural resource*)) OR fracking OR neo-extractivis* OR natural resource development OR resource development OR mineral resources) AND (altercation* OR dispute OR struggl* OR fight OR confront* OR quarrel* OR protest* OR resist* OR tension* OR negotiat* OR dispossess* OR contest* OR war$ OR hostil* OR conflict* OR challeng* OR clash* OR dissent* OR oppos* OR friction* OR disagree* OR discord OR battl* OR breach OR frustration OR obstacle OR movement*) AND (right* OR jurisprudence OR just* OR claim* OR social license OR local empowerment)

Data sources

Peer-reviewed literature: Scopus and Web of Science

Software

Rayyan (https://rayyan.qcri.org/welcome)

Inclusion/exclusion criteria

- Type of document:
    - Include: articles, proceeding papers, conference paper, PhD thesis, book chapter, documented court cases
    - Exclude: review papers, book reviews, notes, editorial

- Type of study:
    - Include: includes empirical data
    - Exclude: theoretical/abstract papers

- Time:
    - Include: 20th and 21st century cases (from 1950 on)

- Context:
    - Include: extractive industry (prospective, ongoing, or declining) – oil, gas, and mineral products, and semi-precious and precious stones

- Language:
    - Include: English, French, Spanish

- Topic relevance
    - Include: local actors claiming rights explicitly

Data extraction

The study will be rooted in a broad theoretical frame based on a sociology of knowledge perspective (Jasanoff 2004; Miller 2014) attending to the way rights are practiced and performed – the "doing" of rights. It is the inherent and irreducible uncertainty as regards when and how such interpretations must be made that confers upon rights the democratic potential to serve as contestable normative objects that mediate between divergent perspectives and interests in situations of resource conflict. This includes the literature about rights "from below" (subaltern cosmopolitanism, etc.) and literature linking rights to emancipatory struggles more generally (O'Connell 2018; van Isschot 2015).

Coding framework

Meta-data	Title	
	Author(s)	
	Year of publication	
	Language	
	DOI	
	Publication outlet	
Cases documented	Country	
	Type of extractive industry	Resource type; prospective, ongoing, closing
Rights claimant		Open category
Rights-based claim	Type(s) of right	Open category
	Channel and claiming strategy(ies)	Open category
		Simultaneous or successive if they are multiple ones
Circumstances of rights-based claim(s)	Circumstances	Open category
	Barriers to rights-based claims	Open category
	Enablers to rights-based claims	Open category
Effects of rights-based claim(s)	Effects and responses	Open category
	Why of effects	Open category

Software

We will use Rayyan, a systematic review software, to code the articles.

Data analysis

We will use narrative synthesis (Popay et al. 2006) to analyse and present the results of the review. Additional theories will help discuss the findings. We will connect the study to the growing literature that critically considers the social function of rights as dual instruments of recognition and dispossession, in light of politics and power (Coleman 2015). The project will draw on the literature surrounding the issues of business and human rights so as to provide insights into the fast-growing interest in this space (Zoomers 2010). We will also provide a critical reflection of our method, including the limitation of keeping a local lens on rights-based claims.

Visit us

SEI Headquarters

Linnégatan 87D Box 24218

104 51 Stockholm Sweden

Tel: +46 8 30 80 44

info@sei.org

Måns Nilsson

Executive Director

SEI Africa

World Agroforestry Centre

United Nations Avenue

Gigiri P.O. Box 30677

Nairobi 00100 Kenya

Tel: +254 20 722 4886

info-Africa@sei.org

Philip Osano

Centre Director

SEI Asia

10th Floor, Kasem Uttayanin Building,

254 Chulalongkorn University,

Henri Dunant Road, Pathumwan, Bangkok,

10330 Thailand

Tel: +66 2 251 4415

info-Asia@sei.org

Niall O'Connor

Centre Director

SEI Tallinn

Arsenal Centre

Erika 14, 10416

Tallinn, Estonia

Tel: +372 6276 100

info-Tallinn@sei.org

Lauri Tammiste

Centre Director

SEI Oxford

Florence House 29 Grove Street

Summertown Oxford

OX2 7JT UK

Tel: +44 1865 42 6316

info-Oxford@sei.org

Ruth Butterfield

Centre Director

SEI US
Main Office

11 Curtis Avenue

Somerville MA 02144-1224 USA

Tel: +1 617 627 3786

info-US@sei.org

Michael Lazarus

Centre Director

SEI US
Davis Office

400 F Street

Davis CA 95616 USA

Tel: +1 530 753 3035

SEI US
Seattle Office

1402 Third Avenue Suite 900

Seattle WA 98101 USA

Tel: +1 206 547 4000

SEI York

University of York

Heslington York

YO10 5DD UK

Tel: +44 1904 32 2897

info-York@sei.org

Sarah West

Centre Director

SEI Latin America

Calle 71 # 11–10

Oficina 801

Bogota Colombia

Tel: +57 1 6355319

info-LatinAmerica@sei.org

David Purkey

Centre Director

SEI Stockholm Environment Institute

sei.org

@SEIresearch @SEIclimate