

# Consultations and Competing Claims: Implementing Participatory Institutions in Colombia's Extractives Industries

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## Abstract

Conflicts between local communities and their governments over natural resource development are not new in Latin America. When mining and oil companies move in, communities have blocked roads, staged protests, and undertaken other forms of direct action. More recently, however, communities have expanded their tactics, turning *toward* the state and its participatory institutions to contest claims over their land. This article investigates this trend and the conditions that facilitate it by analyzing an original database of 102 attempts by communities in Colombia to implement one participatory institution—the popular consultation—to challenge large scale extractive projects. I argue that communities' ability to contest extractive projects by leveraging participatory institutions depends on the balance of power between two external players—private firms and expert allies.

## Key Words

Participatory democracy, institutions, mining, Latin America, business

## Introduction

Over the past two decades, governments in Latin America have staked their countries' economic development on investment in new and expanded extractive (mining and hydrocarbon) projects. Yet as their national governments court foreign firms and investors, local communities across the region have experimented with new ways to challenge the development of extractive projects that threaten their land and livelihood. When informal protests and other forms of direct action are ignored or suppressed, communities have increasingly turned to participatory institutions for consultation to force the State and companies to listen.<sup>i</sup>

What conditions help or hinder communities' ability to use participatory institutions to address competing claims over natural resources and development? This article focuses on a single country case—Colombia—to answer this question. I analyze an original database of 102 mobilizations by civil society groups in Colombia demanding implementation of a local *consulta*

*popular*, or popular consultation, to contest the development of large-scale extractive projects in their territory.<sup>ii</sup>

Between 2013 and 2019, community activists and citizens in municipalities across the country attempted to organize popular consultations to poll voters on whether or not they wish to allow the development of extractive projects in their territory.<sup>iii</sup> The process of organizing a popular consultation is complex, requiring multiple rounds of approvals and coordination from local, regional, and national State actors before a vote is even scheduled. By the end of 2018, many mobilizations had stalled along various points in this process. This article leverages variation between mobilizations in progress along this approvals process to highlight the role of two external players in influencing communities' ability to implement popular consultations: (1) private firm targets of mobilization and (2) allies in expert and NGO networks.

Colombia is a useful case to explore the determinants of participatory institution implementation in the extractive sector. While communities across Latin America have implemented popular consultations in response to extractive projects,<sup>iv</sup> focusing on a single country case controls for cross-national variation that could confound sub-national conditions. Of the countries have registered popular consultations, Colombia has the highest number of both votes carried out and attempts to hold consultations. National-level conditions also make Colombia an ideal case for analysis. Between 2013 and 2019, national-level conditions regarding the State's attitude toward extractive development remained unchanged, despite a change in presidential administration in 2018. Finally, the mobilizations themselves exhibited sufficient variation to confer statistical power to the analysis.

The argument I present challenges traditional social movement and participatory democracy theorists' emphasis on external conditions—politics, resources, and repertoires—as

determinants of communities' ability to mobilize and institutional implementation from below. Instead, I suggest that the relative balance of power between a private firms and anti-extractive expert allies has the most significant impact on a community's ability organize, gain government approval, and successfully implement a popular consultation.

This article makes three main contributions to the existing literature. With few exceptions<sup>v</sup>, scholarship on participatory democracy has overlooked the field of extractives. Instead, scholars have focused their attention on what Benjamin Goldfrank calls "easy issues" related to the distribution of benefits, such as participatory budgeting.<sup>vi</sup> Meanwhile, scholars of extractives tend to present consultation as a toothless mechanism with limited power compared to direct action.<sup>vii</sup> This article brings these two literatures together to illustrate how implementation of participatory institutions in extractives can pose a real challenge to extractive development policy.

This study also expands the toolkit available for scholars evaluating participatory institutions. Much of our current understanding of institutional implementation is built from qualitative case studies and comparisons.<sup>viii</sup> By categorizing the process of implementing popular consultations by its bureaucratic milestones, this paper identifies concrete measures of implementation that move beyond qualitative description.

Finally, this article's findings contribute to our understanding of the relationship between an institution's strength and accessibility. Popular consultations related to extractives represent a least likely example of institutional implementation: anti-extractivism is a "difficult issue" that challenges national priorities. The communities seeking to implement this institution are often located in areas that have been impacted by armed conflict and can count on limited resources and technical training. Most importantly, the popular consultation is a particularly strong

institution in the field of extractives. Unlike other mechanisms like town halls and assemblies, the majority decision in a popular consultation is legally binding; it can stop a project in its tracks. This feature of popular consultations may limit this article's generalizability to cases with lower levels of authority, where State officials and companies may view participatory institutions as a way to contain and diffuse community demands and be more willing to facilitate implementation.<sup>ix</sup> That said, this article's focus on the barriers communities face when trying to access institutions that give them the most voice can help us understand why participatory democracy has struggled to live up to its promise to transform the relationship between citizens and the policy decisions that affect them.

The rest of the article proceeds as follows. I first provide an overview of Colombia's simultaneous adaptation of an economic policy oriented toward extractive development alongside its introduction of participatory reforms in the 1990s and 2000s. I then introduce a theoretical framework to explain variation in communities' ability to invoke popular consultations to address extractive projects. The next section introduces my original database and examines patterns of mobilization to answer *where* communities turn to this institution. I then employ inferential statistics to test my theory. I conclude by considering the practical implications of this article's findings.

### **National development, local conflict**

The scale of extraction and conflict central to the debate over popular consultations in Colombia dates to the early 2000s, when a decline in domestic oil production combined with the beginning of the commodity boom in Latin America spurred the Colombian government to introduce regulatory reforms. Whereas the oil industry and mining operations had previously

featured a relative balance of domestic companies, state-owned firms, and multinationals, the government's new policy oriented the extractive sector toward attracting foreign direct investment (FDI).<sup>x</sup> By 2013, the state approved mining and oil titles covering 5.6 million hectares of land, with another 35 million hectares—one third of Colombia's national territory—designated as “under mining interest.”<sup>xi</sup>

The national government marketed its push into the globalized market to its citizens as a way to finance the country's economic development, especially in rural areas. According to this narrative, mining and oil projects required the construction of infrastructure in areas that otherwise would not be prioritized. Meanwhile, the trickle-down of revenue through royalties distributed back to host communities would improve the budgets of local governments for public expenditures.<sup>xii</sup> Local communities were not convinced. Anti-extractive protests steadily increased from 2000 through the 2010s.<sup>xiii</sup> Between 2000 and 2015, the Bogotá-based NGO Centro de Investigación y Educación Popular (CINEP) registered 263 protest events where participants made claims related to mining projects or mining-related policies.<sup>xiv</sup> In rural municipalities where companies sought to break ground on new projects or expand existing sites, local activists and communities wary of impacts on their land organized marches, blockades, and protests with the goal of restricting company access to their sites.<sup>xv</sup> Government officials, in turn, responded with repressive tactics familiar in a country plagued by decades of armed conflict—militarized policing and the criminalization of protest.<sup>xvi</sup>

A sea change in the struggle between local communities and Colombia's extractive development model occurred in 2013. Residents of the small, rice-growing municipality of Piedras, Tolima and AngloGold Ashanti, one of the world's largest gold mining companies had been engaged in a year-long standoff after residents discovered the company's plans to build a

large-scale open pit gold mine that would affect the municipality.<sup>xvii</sup> Upon the suggestion of a lawyer-friend of one of the town's local elites, residents organized a popular consultation to ask residents a simple yes or no question: did they want mining projects to be developed in the municipality. The results were a resounding "no," and Piedras's victory provided a model that anti-extractive groups across the country then sought to emulate.<sup>xviii</sup>

### **A Democratic Opening**

By adopting and implementing the popular consultation, activists in Piedras were the beneficiaries of a process of political opening that began decades earlier. In 1989, then-President Virgilio Barco responded to decades of armed conflict and popular unrest regarding the country's unequal political system by calling for a constitutional convention. The new, 1991 Constitution explicitly promoted participatory mechanisms and institutions as a building block of a more equitable political system. To some extent, these participatory reforms strengthened citizens' perceptions of their rights and the State's obligation to protect them. As one lawyer involved several popular consultations told me, communities employing popular consultations to protest extractive projects felt protected by the institution; they were using the State's own constitution to voice their concerns.<sup>xix</sup> The benefit of mobilizing under a legal framework, like the 1991 Constitution, has been recognized by scholars studying other forms of legal mobilization. By citing or participating in the legal system, individual citizens can "invoke public authority on their own and for their benefit" rather than working through intermediaries, like political representatives or parties, to change unjust practices or policies.<sup>xx</sup>

This perception is not always matched in practice. The lawyer above portrayed popular consultations as a strong institution according to Tulia Fallei and Thea Riofrancos'<sup>xxi</sup> definition of

strength as the degree to which an institution is “legitimate, efficacious, and enforced” by both communities and the state. In reality, popular consultations were best classified as “dormant”<sup>xxii</sup> or “parchment”<sup>xxiii</sup> prior to 2013. The 1991 Constitution dictates that local governments have the right to hold popular consultations to elicit their communities’ input on issues “of vital importance for the future of the municipality or the wellbeing of the local population.”<sup>xxiv</sup> This is a broad mandate, yet municipal governments organized only 23 consultation in the two decades after the constitution came into effect. Nearly all of these referenda concerned administrative questions like changing municipal boundaries.<sup>xxv</sup>

Even after communities began to adopt the consultation as a tool to contest extractives after 2013, most of these efforts failed to reach the final voting stage. Natural resource governance is one arena that has been impervious to participatory mechanisms in Latin America.<sup>xxvi</sup> Governments are unwilling to share decision-making power in the way that participatory democracy requires when it comes to their priority policies. The Colombian national government created multiple hurdles to block communities from organizing popular consultations. In some instances, the National Registry invalidated proposals by declaring signatures in support to be fraudulent. Departmental tribunals have declared proposed ballots unconstitutional. The Ministry of Finance has refused to pay for voting infrastructure. In other words, the popular consultation remained a weak institution in the vast majority of cases. Understanding the common factors that facilitated the few successful cases of popular consultation as well as the roadblocks that stalled less successful organizing efforts can inform our understanding of institutional adoption and implementation. The rest of this article is devoted to determining the conditions associated with this variation.

## Theoretical Framework

A number of scholars have attempted to explain the “paper-parchment”<sup>xxvii</sup> gap in participatory democracy—that is, the difference between the inclusion of participatory measures in law versus in practice. These studies examine, for example, the origins of institutions in different types of policy-reform projects,<sup>xxviii</sup> national party politics,<sup>xxix</sup> and state support<sup>xxx</sup> to explain why institutions are adopted and whether they impact civil society and politics. This article builds on a recent set of literature that investigates *how* participatory institutions are adopted. As Lindsay Mayka notes, “[s]imply passing initial legislation is not enough to ensure that a participatory institution becomes a space in which civil society can have a voice in policymaking.”<sup>xxxi</sup> Particularly when States are unsupportive, or even hostile, to citizen participation, civil society groups must adapt and innovate around participatory mechanisms to make their voices heard. This might involve taking the State “by surprise” and using participatory institutions in unexpected ways, as Diana Franco-Rodríguez<sup>xxxii</sup> characterizes early instances of popular consultation in Colombia. It could look like a selective refusal to participate in institutions that citizens deem “unfair.” Indigenous communities’ refusal to engage in company-led prior consultation described by Maiah Jaskoski<sup>xxxiii</sup> fall into this category. In other words, this article—like Jaskoski and Franco-Rodríguez—investigates the politics of implementing institutions that civil society groups feel convey their voices.

Within the extractive sector, the politics of participation require civil society to overcome the “extreme power asymmetries [between companies and communities] intrinsic to hydrocarbons and mining.”<sup>xxxiv</sup> Steven Levitsky and María Victoria Murillo<sup>xxxv</sup> argue that 1991 Constitution, along with many other participatory reforms in Latin America, was built on “weak foundations.” Governments were eager to introduce new participatory institutions, but reforms



were introduced without addressing underlying power imbalances and exclusive political structures. The result is “incongruence between formal rule-making processes and de facto power holders” that can disrupt institutional implementation. In the context of the extractive industries, these de facto power holders are most often the firms investing in and developing new or expanded projects. I conceptualize these firms’ power by drawing on Charles Lindblom’s<sup>xxxvi</sup> discussion of the instrumental and structural power of business leaders. In conflicts over extractive project development in Colombia, firms promoting new and expanded projects can draw on both forms of power to stall popular consultations. I consider each in turn.

The significant financial resources and political influence that firms in the extractive sector enjoy affords them substantial instrumental power over both local and national governments to quell anti-extractive mobilization. This type of power manifests as deliberate actions to influence government policy on the national level or community preferences and municipal government support on the local level. Levers of action include, as Tasha Fairfield describes, “favorable relationships with policymakers that enhance access and create bias in favor of business interests... organization, money, technical expertise, and media access, all of which place business in a stronger position to lobby, orchestrate collective action, command authority in policy debates, finance campaigns, and/or shape public opinion.”<sup>xxxvii</sup>

Companies can use this power at various stages of project planning and opposition. At the earliest stages of project planning, companies can count on allies in government ministries, like the National Mining Agency, to promote pro-extractive policies; many officials within government are themselves former mining executives.<sup>xxxviii</sup> To shape public opinion after projects are announced to local communities, companies invest substantial resources in promoting a narrative of “development through mining/hydrocarbons,” sending representatives

to town hall meetings, contracting geologists to attest that projects are environmentally sound, and paying for native advertisement in national newspapers. Where community leaders are able to garner substantial interest in an anti-extractive popular consultation, companies can turn to the legal system to try to block the vote. Compared to communities that may have to rely on pro-bono legal counsel or help from NGOs, corporations can pay for high-price lawyers and draw out the legal process by filing multiple appeals, turning the system into a battle of attrition.

Companies can augment this instrumental power by leveraging their “privileged position” within both Colombia’s national and local economies to exert structural power.<sup>xxxix</sup> Fairchild asserts a business’s structural power is directly related to its economic position.<sup>xi</sup> In the context of the extractives sector, economic position tends to be related to three factors: firm size (whether a firm is a multinational, domestic company, or state-owned), mineral, and phase of operation.<sup>xii</sup> On a national level, successive Colombian presidential administrations have staked the country’s future economic development on expanded investment in its extractive sector—specifically oil and precious minerals.<sup>xiii</sup> On a more local level, local actors—mayors, councilmembers, or local elites—may stand to benefit from new projects or already rely on royalties from existing projects. In this context, the threat of losing potential or real investment from companies discouraged by community action can incentivize politicians to act in favor of corporate interests. In other words, in contrast to instrumental power, which involves companies taking action, it is the *threat* of action that gives companies structural power.

The combination of these two types of power, instrumental and structural, creates substantial roadblocks in the process of organizing and implementing a popular consultation. Variation in firms’ ability to exert their business power may account for some of the variation in institutional implementation, leading me to the following hypothesis:

*H1. Mobilizations facing firms with weaker business power (domestic, non-hydrocarbon/gold) will progress further in the process of implementing a popular consultation.*

Facing an uphill battle against powerful adversaries, social movement scholarship suggests that anti-extractive movements will seek connections with external actors to enhance their relative power against private firms. I identify three types of allies that movement leaders may approach: 1. Regional allies, 2. National allies, and 3. The popular consultation epistemic community.<sup>xliii</sup>

Regional allies include activists from other municipalities and or regional environmental coalitions that community leaders may turn to for guidance. This type of alliance is typically informal and involves information sharing as well as the possibility of working together in some form of regional collective action.<sup>xliv</sup> Leaders from anti-extractive movements that have achieved success have made a point of travelling to other municipalities to share their lessons learned. Activists have also established regional environmental coalitions, like the *Cinturón Occidental Ambiental* (Western Environmental Belt) in southwestern Antioquia or the *Mesas Hídricas* (water roundtables) of Sumapaz or the Piedemonte Llanero, which serve as spaces where activists can share information and discuss environmental issues that affect the broader region their municipality is located in.

Movement leaders can also look to the country's capital to form alliances with one or more nationally oriented organizations. These groups offer resources communities need to counteract the power of the companies they challenge, and these may be complementary. For example, a movement may turn to Dejusticia, a legal NGO, for accompaniment when facing legal challenges from a mining company. At the same time, a representative from the Democratic Pole, a major progressive political party, could attend a local pro-*consulta* rally to lend political

legitimacy to the movement. By disseminating information about individual communities' efforts to organize popular consultations, environmental advocacy organizations like CENSAT Aguas Vivas can draw national attention to otherwise isolated regions, further bolstering local movements. All of these connections could facilitate organization and approval of a popular consultation and act at different stages of the organizing process.

Finally, I consider the role of a few individual experts, who I identified during my fieldwork in Colombia as key figures in various attempts to implement popular consultations across the country. I draw on Peter Haas's concept of epistemic communities as "networks... of knowledge-based experts with an authoritative claim to policy-relevant knowledge within their domain of expertise" to understand the role of these individuals.<sup>xlv</sup> *Consulta* movements called on these individuals for their specific expertise in fields like constitutional law, environmental policy, or geology.<sup>xlvi</sup> These individuals purposefully did not affiliate with any particular NGO. This decision allowed them greater flexibility to respond to community requests without navigating organizational bureaucracy, one individual explained.<sup>xlvii</sup> As such, I consider their role distinct from NGOs.

It seems intuitive, given the benefits outlined above, that communities would seek to form alliances to counterbalance business power. The question this article asks is whether these alliances—either individually or in combination—actually increase a movement's odds of organizing and implementing a popular consultation. Together with consideration of business, this question leads me to the following hypotheses:

*H2. Movements that form (stronger) outside alliances are more likely to progress further toward institutional implementation.*

The following section describes how I operationalize and test these hypotheses.

## **The *Consultas Populares* in Colombia Database**

I constructed an original dataset of all municipality-level attempts to organize a popular consultation explicitly related to mining or hydrocarbon projects to test the hypotheses presented in the previous section. As this article is concerned with *how* institutions are implemented, I only include consider cases where civil society groups have attempted to implement popular consultations. To identify cases, I reviewed national and local press reports from 2013 through 2019 for mentions of popular consultations. If media reports mentioned any form of formal (town halls, petitions, public audiences) or informal (demonstrations, letters drafted from activists to local officials) mobilization specifically calling for a popular consultation, I include that mobilization as a case in my dataset. While this broad inclusion criteria could introduce the possibility of false positives in my dataset, multiple academics and activists I consulted agreed that the Colombian media's tendency to underreport events in rural territories justifies my interpretation that media coverage is a good indication that a movement is real and significant on the ground. I identified a total of 102 unique cases of mobilizations across 95 municipalities (see appendix A).

These 95 municipalities represent 8.5% of Colombia's total municipalities. The cases are spread across 14 of Colombia's 32 departments, with Antioquia (17) and Casanare (17) registering the highest number of mobilizations. This distribution is reflective of the development of Colombia's large-scale extractive sector in recent years. Large multinational firms like AngloGold Ashanti have proposed multiple projects in Antioquia, and state-owned petroleum company Ecopetrol has looked to expand its operations in Casanare. This is also reflected in the types of projects targeted by these mobilizations. Most opposition is (combined

81%) directed toward gold or oil mining projects. Most of these projects (88%) are in the exploration phase of development—that is, they have not begun digging or drilling.

The main dependent variable I employ in this article is an ordinal variable of “progress toward implementation” with values that range from 1 to 5. I leverage the bureaucratic nature of the approvals process to code each case. I break this process down into five distinct stages that movements pass through as they move from initial mobilization toward a vote. This classification is based on the specifics of organizing a popular consultation in Colombia but can be generalized to other cases by considering the various levels of State approval and recognition that civil society must secure to satisfy their demands for institutional implementation. Taking the example of Brazil’s municipal health councils<sup>xlviii</sup>, for implementation to be achieved, local officials must create a health council (lowest stage), the council must receive funding and training from the federal government to conduct their operations (medium stage), and the relevant State body must recognize the council’s law-making authority (high stage). An overview of the process in Colombia from the lowest stage (mobilization but no State action) to the highest stage (vote is held) is depicted in table 1 (and see appendix B).<sup>xlix</sup> For this analysis, I define “institutional implementation” by simply whether the mobilization culminated in an official vote on the proposed policy question.

I collected qualitative information on each case from local, regional, and national news outlets as well as documents from the National Registry. Some municipal governments released informational videos on YouTube announcing upcoming election days. Pro-consultation committees or local environmental groups also sometimes set up public Facebook pages where they would promote participation in the mobilization and document both approvals and setbacks in the process of organizing the vote. I code a case as reaching a stage of progress when news or

other sources *explicitly* say that the *pro-consulta* movement has gained approval from the relevant authority.

*Table 1. Stages of progress toward implementation.*

|  | <b>Civil society action</b>  | <b>State action</b>   |
|--|--|---|
| <b>Stage 1</b><br><i>No State action</i>                     | Initial mobilization   | No institutional action   |
| <b>Stage 2</b><br><i>First stage of local gov. approval</i>  | Continued Mobilization<br><br>Formation of pro-consultation committee. Committee then applies for recognition by National Registry             | Mayor presents proposal for popular consultation to municipal council ( <i>pathway 1</i> )<br><br><b>Or</b><br>Local branch of National Registry approves pro-consultation committee and gives committee 6 months to collect signatures to petition for consultation ( <i>pathway 2</i> ) |
| <b>Stage 3</b><br><i>Second stage of local gov. approval</i> | Continued mobilization<br><br>Pro-consultation committee collects signatures from >20% of electorate and submits petition to National Registry | Municipal council approves consultation proposal ( <i>pathway 1</i> )<br><br><b>Or</b><br>Local branch of National registry reviews and approves signatures ( <i>pathway 2</i> )  |
| <b>Stage 4</b><br><i>Judicial approval</i>                   | Continued mobilization   | Administrative Tribunal reviews proposed consultation and declares proposal meets constitutional requirements<br><br><b>And</b><br>Mayor schedules voting day   |
| <b>Stage 5</b><br><i>National gov. recognition</i>           | >30% of electorate participates in vote  | Ministry of Finance dispenses funds to pay for election<br><br><b>And</b><br>National Registry coordinates electoral infrastructure   |

Source: author's elaboration.

It is possible that some stages are more difficult to get through than others. Given the national government's opposition to popular consultations, securing State support at higher levels of implementation may prove more daunting than convincing mayors or councilmembers who are, fundamentally, members of the community. To account for this possibility, I include

robustness checks using a binary measure of “low” implementation (stages 1-3) and “high” implementation (stages 4-5) (see Appendix C).

I focus primarily on business’s structural power rather than instrumental power at this statistical stage of analysis. Using titling data gathered from Colombia’s National Mining Agency and Hydrocarbon Agency and qualitative description of the anti-extractive movement, I created a binary variable for company type. Company type was coded as a 1 if the target company was a multinational company or Ecopetrol and a 0 if it was a domestic firm. I created two dummy variables to capture whether the primary mineral for extraction was gold or hydrocarbons (excluding fracking). I also include a dummy variable for the stage of the proposed project. Projects in the exploration phase were coded as a 0, while projects already in operation were coded as a 1. I do include one measure of instrumental power as company connections with state security forces. Using non-government sources, I identified instances where extractive firms had signed cooperation agreements with police, military, or state justice institutions—known as *convenios de fuerza*—and code the presence of these agreements as a dummy variable. I recognize that focusing on structural power over instrumental power makes my measurement a blunt instrument to evaluate the impact of business on implementation. Businesses may pressure communities and State actors in different ways at stages of implementation. This more fine-grained analysis is outside the scope of this study but could motivate future qualitative work.

Regarding outside alliances, I test this hypothesis in two ways. First, I noted the names of any individuals or organizations involved in the pro-*consulta* movement in the qualitative description of each *consulta* attempt and sorted those connections into each of the three relevant categories. I then created separate dummy variables for the presence of each type of alliance (three in total) for each *consulta* attempt. Recognizing that movements may form multiple types



of alliances and that different combinations of alliances may be more beneficial for movements, I created composite scores for overall alliance strength that range from 0 (no alliances) to 4 (connections with all three types of allies) for each attempt (see Appendix D).

### *Alternative Explanations*

The relational explanations that I test in this article run counter to conventional wisdom among social movement theorists, which attributes variation in movement emergence and success to the structural conditions that movements operate in. Put simply, movement outcomes are often affected by factors outside of their leaders' immediate control. Existing literature emphasizes three of these conditions: resources, especially in the case of legal mobilization, which requires specialized knowledge and expertise<sup>i</sup>; political opportunities that create openings for movements to organize without political backlash<sup>ii</sup>; and historical repertoires of contention that build networks and organizing structures that can be mobilized for different causes.<sup>iii</sup> I include indicators for each of these theories as alternative explanations to test the robustness of my theoretical framework.

I include two types of measures for community resources: general socio-economic indicators and sector-specific resources in the form of extractive royalties. These include municipality GDP and unsatisfied basic needs index (NBI) from the Universidad de los Andes' CEDE municipal panel dataset and the logged sum of royalties received between 2011 and 2017 from the Colombian government's Planning Unit for Mining and Energy (*Unidad de Planeación Minero Energético*).<sup>liii</sup>

Regarding political opportunities, I focus my analysis on local-level conditions to explain my dataset's subnational variation in popular consultation implementation. I include three

measures of local political conditions from the Universidad de los Andes's politics panel dataset. The first is the percentage of the eligible electorate that participated in the 2015 mayoral election. I also calculate the Vanhanen index score from the same election. Finally, I coded the political party ideology of the mayors in each municipality included in my dataset on a 1-3 scale with values of 1 representing parties on the Right of the political spectrum, 2 representing the center, and 3 representing the Left. I based these classifications on the national platform of the party in question. Where the mayor ran under a coalition or local, independent party, I reviewed previous election history to determine what parties that mayor had previously represented and if that indicated a particular ideological leaning.

To identify historical repertoires, I consider both violent and non-violent histories of collective action. In the context of rural Colombia where the majority of efforts to implement the popular consultation took place, these mobilizing structures may have formed through either non-violent or violent forms of collective action. I use violence indicators from the CEDE dataset to measure the impact of armed group presence in a municipality. The dataset includes data from the years 1993 to 2013 collected primarily from the National Police and Ministry of Defense. I sum the total number of homicides, kidnappings, and clashes with state security forces by armed group (FARC, National Liberation Army, paramilitaries) for each municipality to get a rough measure of overall impact in a municipality.<sup>liv</sup> I also include a dummy variable to capture whether a municipality registered at least one assassination of a social leader between 2016 and December 2018 to account for the continued threat of violence environmental leaders may face. Data on social leader assassinations was compiled in January 2020 from Datasketch, a website that compiles reports from various human rights and media organizations in Colombia.

While the theoretical framework I present here focuses on the role of external actors, I do not overlook the choices of community leaders in my analysis. Not all attempts to organize a popular consultation look the same. Since 2015, movement leaders have been able to choose between two different pathways (see table) to initiate the approvals process required to organize a popular consultation. I account for this choice by including a dummy variable that codes an attempt as a 1 if communities opt to organize a popular consultation via petition, and a 0 if communities choose to work through their local mayors.

Finally, I include a number of control variables in my analysis. Municipality size, population, and rurality index (the proportion of residents living outside the main population center) can affect a number of measures. These might include the number of protest events, the proportion of municipality affected by an extractive project, the GDP, and ability of voters to participate in elections, to name a few. I use these variables from Colombia's National Department of Statistics across all of my models. I keep mining royalties and NBI in all of my models for a similar reason.

### **Empirical strategy and discussion**

This article's use of an ordinal dependent variable to measure progress toward implementation renders tests like OLS or logistic regression inappropriate. Instead, I follow guidance from Fullerton<sup>lv</sup> and Bauldry et al.<sup>lvi</sup> to employ a continuation ratio model. This approach, Fullerton explains, is most appropriate for "a certain class of outcomes that may be thought of as a series of steps with logical starting and ending points (e.g. educational attainment and the process of registering to vote and casting a ballot)." Stages of progress toward

implementation certainly fit into this category of outcome. Using the continuation ratio approach, I run models testing each of my hypotheses separately to exclude possible endogeneity between classes of variables. The only models that reach standard levels of significance are those that include vetoes, alliances, and *consulta* pathways of initiation. I run a final model including variables from these three models (vetoes, alliances, and pathways) together to test whether values remain significant when alternative explanations are added. The results from all seven models are presented in Table 2. Continuous variables are standardized by dividing by two standard deviations of the control group to facilitate comparison with binary variables. The results are robust with two specifications of low/high progress (see appendix B)

*Table 2. Continuation Ratio Model (odds ratios with standard errors presented).*

|                                      | Business Power      | Alliances          | Pathways            | Resources | Politics         | Repertoires      | Combined            |
|--------------------------------------|---------------------|--------------------|---------------------|-----------|------------------|------------------|---------------------|
| Multinational/<br>Ecopetrol          | 1.221<br>(0.483)    |                    |                     |           |                  |                  | 1.588<br>(0.767)    |
| Hydrocarbon                          | 2.77**<br>(1.123)   |                    |                     |           |                  |                  | 4.918***<br>(2.628) |
| Project in<br>exploration phase      | 0.275***<br>(0.135) |                    |                     |           |                  |                  | 0.163***<br>(0.102) |
| Convenio de<br>Fuerza                | 0.550<br>(0.223)    |                    |                     |           |                  |                  | 0.772<br>(0.388)    |
| Regional allies                      |                     | 0.984<br>(0.677)   |                     |           |                  |                  |                     |
| National allies                      |                     | 0.852<br>(0.430)   |                     |           |                  |                  |                     |
| Epistemic<br>Community               |                     | 0.447<br>(0.263)   |                     |           |                  |                  |                     |
| Alliance<br>composite score          |                     | 2.085**<br>(0.633) |                     |           |                  |                  | 1.826***<br>(0.356) |
| Petition                             |                     |                    | 3.567***<br>(1.316) |           |                  |                  | 2.705***<br>(1.222) |
| Electoral<br>Participation<br>(2015) |                     |                    |                     |           | 1.427<br>(0.447) |                  |                     |
| Vanhanen Score<br>(2015)             |                     |                    |                     |           | 1.183<br>(0.432) |                  |                     |
| PP Ideology<br>(Mayor PP)            |                     |                    |                     |           | 1.153<br>(0.234) |                  |                     |
| Protest Events                       |                     |                    |                     |           |                  | 0.998<br>(0.002) |                     |
| FARC Violence                        |                     |                    |                     |           |                  | 0.768<br>(0.243) |                     |
| ELN Violence                         |                     |                    |                     |           |                  | 0.969<br>(0.038) |                     |

|                                  |                  |                  |                  |                  |                  |                  |                  |
|----------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|
| Paramilitary Violence            |                  |                  |                  |                  |                  | 1.377<br>(1.073) |                  |
| Social leaders killed since 2016 |                  |                  |                  |                  |                  | 1.850<br>(1.023) |                  |
| Coca                             |                  |                  |                  |                  |                  | 1.399<br>(0.675) |                  |
| Illegal Mining                   |                  |                  |                  |                  |                  | 1.228<br>(0.753) |                  |
| Royalties                        | 0.993<br>(0.021) | 1.004<br>(0.022) | 0.985<br>(0.025) | 0.994<br>(0.020) | 0.999<br>(0.021) | 0.995<br>(0.021) | 1.002<br>(0.027) |
| Basic Needs Index                | 0.318<br>(0.189) | 0.678<br>(0.429) | 0.442<br>(0.312) | 0.496<br>(0.274) | 1.12<br>(0.57)   | 0.420<br>(0.259) | 0.326<br>(0.265) |
| Population (tot.)                | 5.941<br>(8.286) | 1.742<br>(2.279) | 1.064<br>(1.410) | 2.688<br>(3.283) | 3.286<br>(4.261) | 6.324<br>(9.430) | 1.687<br>(2.637) |
| Muni Size (km2)                  | 0.875<br>(0.480) | 1.204<br>(0.649) | 1.692<br>(1.179) | 1.003<br>(0.524) | 1.084<br>(0.585) | 1.047<br>(0.587) | 1.442<br>(1.094) |
| Rurality Index                   | 2.402<br>(1.094) | 1.501<br>(0.687) | 1.718<br>(0.848) | 1.714<br>(0.689) | 1.887<br>(0.836) | 1.682<br>(0.752) | 2.881<br>(1.692) |
| Prob>chi2                        | 0.062*           | 0.026***         | 0.022**          | 0.666            | 0.615            | 0.821            | 0.0005***        |
| Observations                     | 98               | 99               | 77               | 99               | 97               | 97               | 77               |

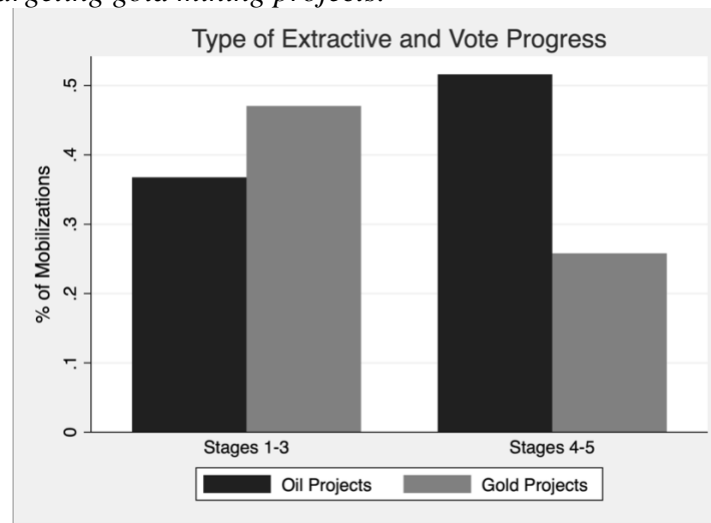
\*p<0.1 \*\*p<0.05 \*\*\*p<0.01 Rows shaded light grey correspond to variables from alternative explanations. Rows in white correspond to variables related to my hypotheses.

The results run counter to conventional explanations of social movement success. None of the structural conditions—either as individual variables or taken together in a model—have a significant impact on the odds of progress toward institutional implementation. Instead, relational explanations seem to be driving variation; the models testing business power and alliances separately are both statistically significant ( $p < 0.1$  and  $p < 0.05$ , respectively), as is their combined model ( $p < 0.01$ ). I discuss each hypothesis in turn.

In general, the results support the theory that business power hold significant sway over the implementation of institutions that challenge their interests. But examining the size and direction of effects of the variables separately underscores that not all firms in Colombia have the same power. In contrast to what Bernal-Bermudez<sup>lvii</sup> and Amengual<sup>lviii</sup> suggest, company size is not a useful predictor of a firm's power, but the type of mineral being extracted is. Holding all other variables equal, anti-extractive movements targeting oil and gas projects are nearly three times more likely to progress closer toward institutional implementation than movements

targeting mining projects. This difference is made stark when we compare oil and gas projects to gold mining projects, which make up an equal share of popular consultation targets (see figure 1).

*Figure 1. Percentage of popular consultations targeting oil projects that advance past stage 3 compared to those targeting gold mining projects.*

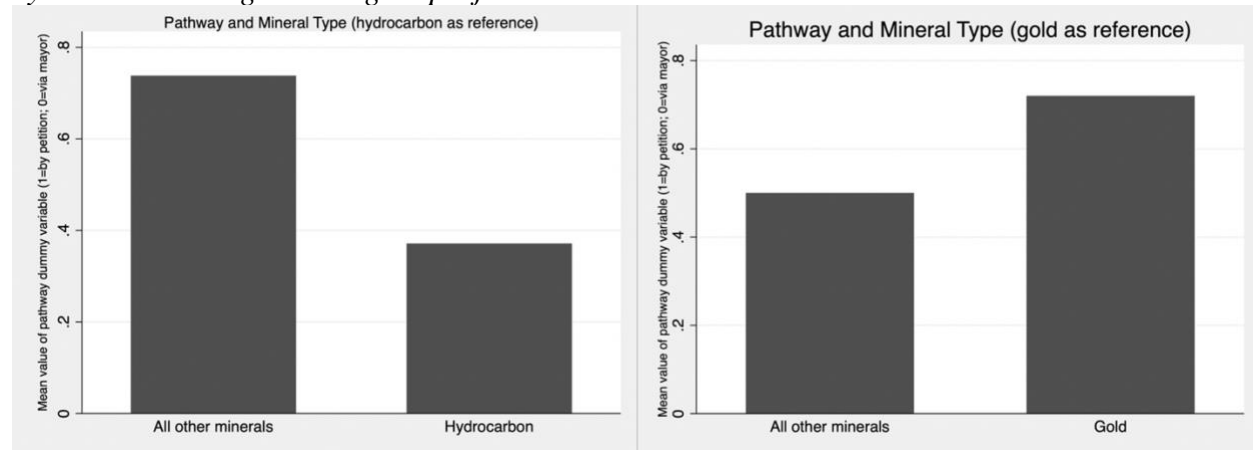


This result suggests that structural power may depend both on a company's current position in the domestic market and international conditions. Oil production in the past decade has contributed a far greater share to Colombia's GDP than gold mining, leading us to believe that hydrocarbon firms may occupy a firmer structural position in Colombia's economy. Recent global trends, however, have diminished the prospects of oil's primacy in the near future. As oil prices continue to fall and global markets continue shift toward renewable energy, politicians may be less likely to use their political capital to counter communities' preferences and back the expansion of hydrocarbon extraction.<sup>lix</sup>

We can visualize this trend by comparing the pathways that movements choose to initiate the institutional approval process as a proxy for mayoral support for extractive companies. As mentioned previously, communities that perceive their local leaders as highly favorable to extractive projects (and therefore hostile to institutional implementation) will likely choose to

begin the process via petition. Figure 2 shows that movements targeting hydrocarbon projects have a mean pathway variable value closer to 0—indicating that the majority of anti-hydrocarbon movements chose to start organizing a popular consultation in conjunction with their local mayors rather than via petition.

*Figure 2. Comparison of most common pathway of initiation between hydrocarbon/non-hydrocarbon and gold/non-gold projects*



This finding holds if we drop cases where mobilization began before 2015. This suggests that the balance of power between communities and companies to influence local politicians in areas subject to new or expanded hydrocarbon projects may lean closer to the communities' side than we would initially expect, at least at early stages of initiation.<sup>lx</sup> While this comparison of pathways does not account for later shifts in the balance of power, communities' abilities to push their pro-consultation movements against hydrocarbon projects from early stages of mobilization toward full institutional implementation suggests that communities may be able to maintain pressure on their politicians beyond initiation, despite companies' bids to stop a popular consultation from progressing.

The heterogeneity of business power within extractive sector is further emphasized by the relative success gold miners had in obstructing institutional implementation. Again, we can

compare gold miners' structural power to other extractives. The signing of a peace deal with the country's largest guerrilla group—the FARC—opened up swaths of the countryside, previously inaccessible due to ongoing civil conflict, to prospective investors.<sup>lxi</sup> Given that international gold prices tend to remain fairly consistent, local governments may agree with national policy and companies' promises that new gold projects can promise future development and try to discourage community mobilizations that jeopardize these projects.

We can test this theory by repeating the analysis of pathways of initiation above (see figure 4). In contrast to hydrocarbon projects, communities facing new gold mining projects more often initiate implementation of the popular consultation via petition, suggesting that mayors in these areas are more aligned with company interests. An examination of operations by one major gold mining firm—AngloGold Ashanti (AGA)—indicates that it, and other gold miners, are willing to augment their structural power with significant spending on instrumental actions. AGA, for example, funds the sole radio station operating in Jericó, Antioquia—a municipality that attempted and failed in early stages of progress to organize a popular consultation.<sup>lxii</sup> AGA has also targeted specific individuals or sectors of the population for influence. An activist involved an attempt to block a project in Antioquia described to me how a multinational gold miner had set up a private foundation in town that paid for new computers for local schools. According to my interlocutor, the company, in effect, was trying to weaken support for popular consultations among parents of school-age children.<sup>lxiii</sup>

The results also provide evidence supporting my hypothesis that movements with stronger outside alliances will progress further toward a vote; movement allies seem to represent a significant player in institutional implementation. But there is an important caveat: it is the



combination of alliances captured by a movement's composite score, rather than alliances with any one group, that increases the odds of progressing toward a vote.

All movements reached out to at least one regional ally during the course of mobilization, and many try to ally with nationally oriented NGOs. In order to further toward implementation, movements must successfully ally with prominent national groups and/or members of the popular consultation epistemic community. If we pull apart the composite score variable, we find that mobilizations with the highest possible alliance score are driving this positive correlation.

This result echoes previous work on local level popular participation. Popular movements that try to act with complete autonomy are often rendered “marginalized” and “insignificant,” and movements “benefit from striking multiple alliances with a variety of actors.”<sup>lxiv</sup> At the same time, the importance of external allies poses a conundrum for some local communities. Local leaders can choose to contact Bogotá-based organizations and experts, but they cannot be sure that potential allies will *choose them*. NGOs and individual experts have their own limits on resources. This issue also introduces possible endogeneity in the statistical model: are NGOs more likely to choose to work with communities that are more likely to succeed on their own, or is it ally's effects on the community—training, resources, publicity—that tips the scale toward institutional implementation?

Interviews that I conducted with NGO representatives and members of the epistemic community suggest that it is the latter. Across organizations, I could not identify a systematic preference for stronger movements. Allies' reasons for working with particular communities varied by their resources, personalities, and focus. Certain communities are too far away for them to travel to.<sup>lxv</sup> Organizations deemed some movements' needs to be beyond their skill set.<sup>lxvi</sup> Sometimes, experts simply did not get along with movement leaders.<sup>lxvii</sup> Regardless of

their motivations and justifications, by choosing who to work with, NGOs and experts can effectively serve as gatekeepers of institutional implementation. The roles of these gatekeepers cast doubt on the ability of participatory democracy to serve as a tool of empowerment for rural communities; the center of power in conflicts over local development still resides in the country's capital, despite participatory reforms.

So far, my analysis has stressed roles of outside actors—firms and allies—in institutional implementation. Both the pathways and combined models presented in Table 2, however, confirm that movement leaders' choices impact the odds of a popular consultation coming to fruition. Mobilizations that initiate institutional implementation through petitions rather than working through their local governments are three and a half times more likely to progress further toward implementation. The effect size diminishes only slightly when we include alternative explanations. This result has two implications. First, it underscores the relative unimportance of traditional political opportunities in early stages of institutional activation. Where local governments are hostile to anti-extractive movements, activists are still able to bypass them in early stages of mobilization.

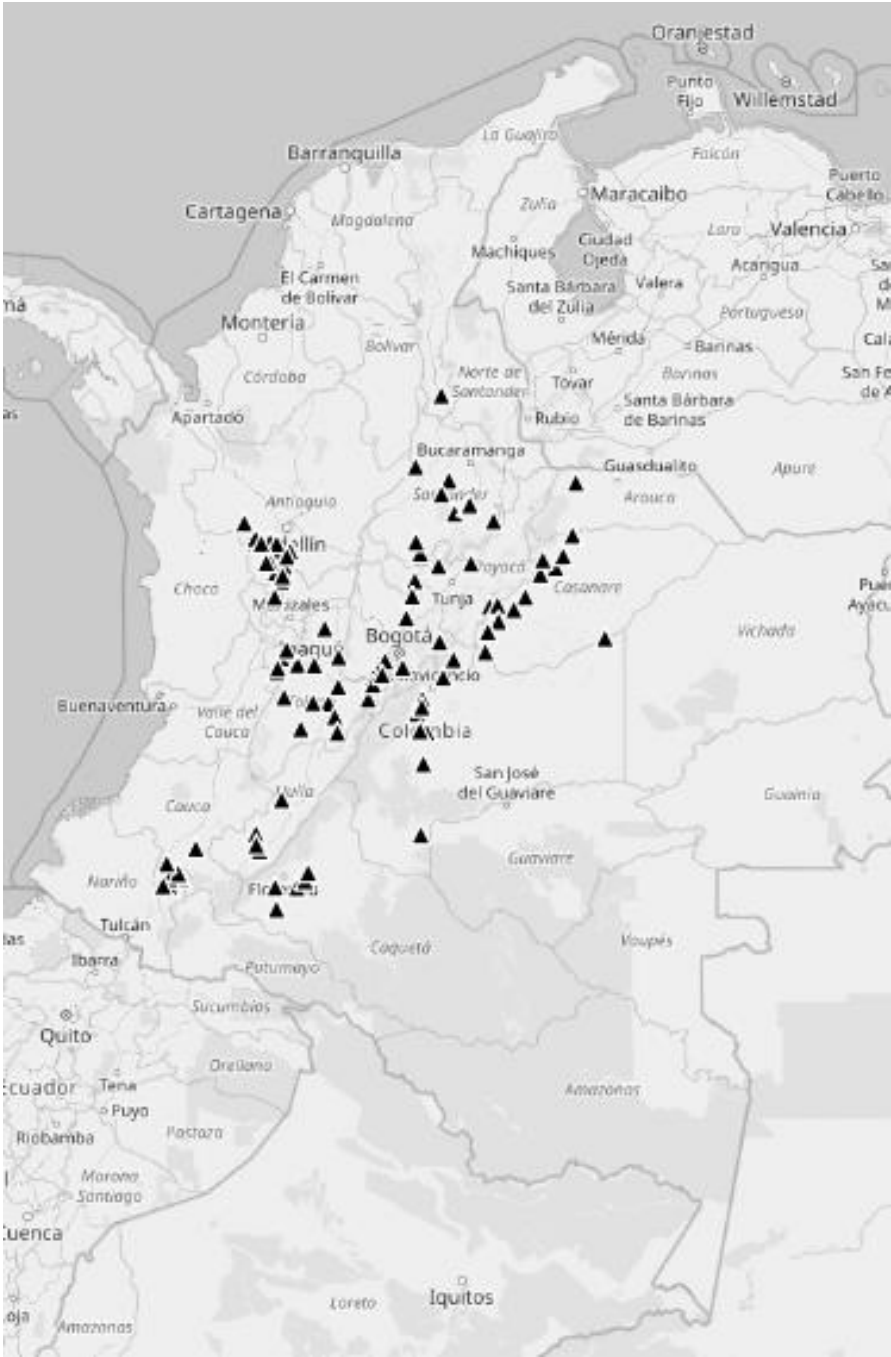
Second, this finding may seem counterintuitive given how the sections above argue in favor of the importance of business power over local governments. But if we hold target minerals and companies constant, the results simply indicate that early consolidation of support for participatory institutions makes their implementation more likely if cases face similarly powerful opponents. Early demonstration of broad opposition to extraction across the community may buoy implementation efforts as they face hurdles later in the process. In other words, community leaders are not idle participants; their decisions do have explanatory power in determining institutional implementation.

## **Conclusion**

In this article, I examine the conditions that either facilitate or hinder institutional implementation by communities facing threats from extractive projects. Focusing on the institution of popular consultations in Colombia, I find that the balance of power between private firms and expert allies plays a critical role in determining the course of implementation. By centering the role of external actors in the politics of institutional implementation, this study complicates the conventional narrative of participatory democracy that focuses on civil society, the State, and the political conditions that influence their interactions.

The results of this study have important practical implications. The conditions emerged as significant determinants of a community's ability to successfully hold a vote are largely external to the communities themselves. Participatory institutions are intended to close the distance between citizens and the policy decisions that affect their lives. Yet if outside actors—experts and companies—based in the capital city or abroad serve as mediating forces in local participatory processes, it raises the question of how accessible institutions of participation truly are. The answer may depend on the type of institution. Popular consultations are particularly strong mechanisms compared to other institutions that elicit input from citizens, but where civil society's preferences are not binding. A direction for future research could be to investigate these differences.

**Appendix A: map of municipalities registering attempts to hold a popular consultation**



Source: Author's elaboration

## **Appendix B: Stages of Progress toward implementation**

*Stage One.* Stage one represents the lowest level of progress that an attempt can achieve. At least some civil society groups have mobilized to demand that local government organizes a *consulta*. They may do this by staging demonstrations, organizing town hall meetings, or opening other avenues for dialogue with local officials. However, neither local government officers nor civil society leaders have taken any official action toward initiating the bureaucratic process required to hold a vote.

*Stage Two.* To reach stage two, those attempting to hold a *consulta* must begin the official bureaucratic process. This process can take two different forms. Under Law 134 of 1994, local mayors are in charge of presenting the text and justification for the vote to the municipal council.<sup>lxviii</sup> Since 2015, civil society groups or individual citizens have been able to bypass local governments by registering with their regional office the National Registry (*Registraduría*) to be recognized as a *comité promotor* for their proposed *consulta*.<sup>lxix</sup> Once the National Registry recognizes the *comité promotor*, the group has up to six months to collect signatures from over twenty percent of the electorate.

*Stage Three.* Attempts reach stage three when either the municipal council approves the mayor's motion to hold a *consulta popular* or the *comité promotor* submits its list of signatures to the National Registry for verification and approval. The matter is then transferred to the Departmental Administrative Tribunal, which decides whether the proposed referendum meets constitutional required (i.e. the proposed question is phrased as a "yes" or "no" vote and the wording of the question is neither misleading nor biased).<sup>lxx</sup>

*Stage Four.* At stage four of progress, the Departmental Administrative Tribunal declares the proposed *consulta* to be constitutional and the mayor is required to schedule and announce a provisional election day. At this point, the National Registry should provide local governments with the necessary electoral infrastructure (ballots, voting booths, election monitors), and the Ministry of Finance should release funds to local governments to pay for the election.

*Stage Five.* At the final stage of progress, stage five, local governments successfully hold a vote for the *consulta popular*. For the purposes of this analysis, movements that reach this stage are deemed “complete” or “successful,” regardless of the outcome of the vote, as achieving the vote implies that the movement has successfully navigated all bureaucratic challenges to that point.

## Appendix C: Coding Justification and robustness check

By definition, all cases considered in this analysis reached at least stage one. Among this set, cases that reached stages four and five were the easiest to identify. National interest in popular consultations related to extractives between 2013 and 2018 in Colombia was quite high, so voting days and the run-up to them were often covered extensively in both regional and national press.

Differentiating between stages one through three proved more challenging. Where anti-extractive movements opted to initiate the official process via citizen petition rather than waiting on mayors, there the National Registry publishes documentation first recognizing the formation of a *comité promotor* (stage two) and later acknowledging receipt of signatures (stage three). But where mayors led the process of gaining approval from the municipal council, I had to rely primarily on local and regional news coverage, which did not always make clear when mayors had taken official action. Some mayors may have even intentionally obscured the extent of their support for anti-extractive consultations in an attempt to appease both environmentalists and those in favor of extraction. The mayor of Montañita, Caquetá, for example participated in *consulta* marches and declared he would pursue all means, including a *consulta* to ban mining from the municipality (RCN Radio, 2016), but I could not find evidence that he submitted a proposal to the municipal council. This introduces the possibility that some cases lying between stage one and stage three of progress may be coded as lower on the continuum of progress in my dataset than they reached in reality.

To account for this possibility of bias, as well the small number of observations (10) in the stage five category of progress, I include robustness checks with an alternative specification of low/high progress. I construct a binary dependent variable of “advanced progress” that codes

movements as positive=1 if they reach stages four or five of mobilization and negative=0 if they stall at stage 3 or lower by the end of 2018. Using this definition, 32 mobilizations are coded as 1=advanced. I then re-test my hypotheses using logit regression models. There is no marked difference in coefficients and significance levels.

### *Logistic regression results*

|   | <b>Business Power</b> | <b>Alliances</b>                        | <b>Pathways</b>     | <b>Resources</b> | <b>Politics</b>   | <b>Repertoires</b> |
|---|-----------------------|---|---------------------|------------------|-------------------|--------------------|
| Multinational/<br>Ecopetrol                           | 0.537<br>(0.912)      |   |                     |                  |                   |                    |
| Hydrocarbon   | 2.607***<br>(0.891)   |   |                     |                  |                   |                    |
| Project in<br>exploration phase                       | Omitted               |   |                     |                  |                   |                    |
| Convenio de<br>Fuerza                                 | -3.494***<br>(1.261)  |   |                     |                  |                   |                    |
| Regional allies                                       |                       | Omitted                                 |                     |                  |                   |                    |
| National allies                                       |                       | 0.852<br>(0.430)                        |                     |                  |                   |                    |
| Epistemic<br>Community<br>Alliance<br>composite score |                       | -1.464<br>(0.589)<br>1.477**<br>(0.598) |                     |                  |                   |                    |
| Petition  |                       |   | 2.765***<br>(0.827) |                  |                   |                    |
| Electoral<br>Participation<br>(2015)                  |                       |   |                     |                  | 0.534<br>(0.667)  |                    |
| Vanhanen Score<br>(2015)                              |                       |   |                     |                  | 0.710<br>(0.649)  |                    |
| PP Ideology<br>(Mayor PP)                             |                       |   |                     |                  | -0.089<br>(0.040) |                    |
| Protest Events  |                       |   |                     |                  |                   | -0.080*<br>(0.047) |
| FARC Violence   |                       |   |                     |                  |                   | -0.806<br>(0.924)  |
| ELN Violence  |                       |   |                     |                  |                   | -0.8722<br>(0.598) |
| Paramilitary<br>Violence                              |                       |   |                     |                  |                   | -3.223<br>(2.802)  |
| Social leaders<br>killed since 2016                   |                       |   |                     |                  |                   | 0.202<br>(1.027)   |
| Coca  |                       |   |                     |                  |                   | 1.328<br>(0.903)   |
| Illegal Mining  |                       |   |                     |                  |                   | -1.333<br>(1.471)  |



|                      |                   |                   |                   |                   |                   |                    |
|----------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|
| Royalties            | 0.034<br>(0.048)  | 0.036<br>(0.043)  | 0.0567<br>(0.053) | 0.010<br>(0.036)  | 0.026<br>(0.040)  | 0.013<br>(0.046)   |
| Basic Needs<br>Index | 0.367<br>(0.048)  | 0.754<br>(1.100)  | 1.669<br>(1.294)  | 0.149<br>(0.880)  | -0.213<br>(0.936) | 0.202<br>(1.101)   |
| Population (tot.)    | -1.260<br>(8.269) | -3.832<br>(6.793) | -8.670<br>(6.809) | -1.724<br>(6.102) | 0.401<br>(6.001)  | 19.963<br>(12.043) |
| Muni Size (km2)      | -0.482<br>(0.904) | 0.527<br>(0.988)  | 0.025<br>(1.189)  | 0.244<br>(0.914)  | 0.481<br>(0.935)  | 0.785<br>(1.329)   |
| Rurality Index       | 0.482<br>(0.904)  | -0.079<br>(0.838) | -0.713<br>(0.932) | 0.372<br>(0.711)  | 0.519<br>(0.753)  | -0.316<br>(0.897)  |
| Prob>chi2            | 0.014**           | 0.142             | 0.007***          | 0.948             | 0.767             | 0.108              |
| Observations         | 65                | 71                | 58                | 77                | 75                | 75                 |

## Appendix D: Alliance composite score definitions

| Score | Definition  |
|-------|---|
| 0     | No alliances  |
| 1     | Only presence of regional groups/activists from other municipalities  |
| 2     | Presence of regional allies and select national NGOs  |
| 3     | Presence of regional allies and <b>either</b> major national NGOs, political parties, <b>or</b> the epistemic community |
| 4     | Presence of all three types of allies   |

<sup>i</sup> Mariana Walter and Leire Urkidi, “Community Mining Consultations in Latin America (2002–2012): The Contested Emergence of a Hybrid Institution for Participation,” *Geoforum* 84 (August 1, 2017): 265–79, <https://doi.org/10.1016/j.geoforum.2015.09.007>; Tulia G Falleti and Thea N Riofrancos, “Endogenous Participation Strengthening Prior Consultation in Extractive Economies,” *World Politics* 70, no. 1 (January 2018): 86–121, <https://doi.org/doi:10.1017/s004388711700020X>; Maiah Jaskoski, “Participatory Institutions as a Focal Point for Mobilizing: Prior Consultation and Indigenous Conflict in Colombia’s Extractive Industries,” *Comparative Politics*, 2020, <https://doi.org/10.5129/001041520X15757670821639>.

<sup>ii</sup> Popular consultations are a different mechanism from the better-studied *consulta previa*, or prior consultation. In Colombia, as in other countries in Latin America, private firms and government agencies are legally required to inform and consult indigenous and other ethnic minority communities before developing extractive or infrastructure projects that would affect their territories (though communities do not have the right to veto the project). Popular consultations are a much blunter participatory tool than prior consultation. Popular consultations—effectively a local referendum—can be organized to poll eligible voters in a jurisdiction on any “yes/no” policy question. Given the broader mandate for popular consultation, *campesino* and other non-ethnic minority communities ineligible for prior consultation have viewed popular consultations as an alternative to prior consultation if they formulate the “yes/no” policy question to specifically address extractive projects. See Rodríguez-Franco, 2017 (p. 25-26) for more on the distinction between prior consultation and popular consultation and Jaskoski, 2020; Rodríguez-Garavito, 2011 for more on prior consultation and extractives in Colombia.

<sup>iii</sup> Colombia’s Constitutional Court ruled in October 2018 that popular consultations could not be used to address questions related to extractive projects (Sentencia SU095/18).

<sup>iv</sup> Walter and Urkidi, “Community Mining Consultations in Latin America (2002–2012).”

<sup>v</sup> e.g. Falleti and Riofrancos, “Endogenous Participation Strengthening Prior Consultation in Extractive Economies.”

<sup>vi</sup> Benjamin Goldfrank, “Inclusion Without Power? Limits of Participatory Institutions,” in *The Inclusionary Turn in Latin American Democracies*, ed. Diana Kapiszewski, Steven Levitsky, and Deborah Yashar (Cambridge: University of Cambridge Press, 2021), 117–54; de Sousa Santos, Boaventura, “Participatory Budgeting in Porto Alegre: Toward a Redistributive Democracy,” *Politics & Society* 26, no. 4 (December 1998): 461–510; Gianpaolo Baiocchi, *Militants and Citizens: The Politics of Participatory Democracy in Porto Alegre* (Stanford University Press, 2005); Brian Wampler, *Participatory Budgeting in Brazil: Contestation, Cooperation, and Accountability* (University Park, Pa: Pennsylvania State University Press, 2007); Laurence Piper, “How Participatory Institutions Deepen Democracy through Broadening Representation: The Case of Participatory Budgeting in Porto Alegre, Brazil,” *Theoria* 61, no. 139 (June 2014): 50–67; Lindsay Mayka, “Society-Driven Participatory Institutions: Lessons from Colombia’s Planning Councils,” *Latin American Politics and Society* 61, no. 02 (May 2019): 93–114, <https://doi.org/10.1017/lap.2018.79>.

<sup>vii</sup> Jaskoski, “Participatory Institutions as a Focal Point for Mobilizing”; Rodríguez-Garavito, “Ethnicity.Gov: Global Governance, Indigenous Peoples, and the Right to Prior Consultation in Social Minefields,” *Indiana Journal of Global Legal Studies* 18, no. 1 (2011): 263, <https://doi.org/10.2979/indjgloglegstu.18.1.263>; Wendy Wolford, “Participatory Democracy by Default: Land Reform, Social Movements and the State in Brazil,” *The Journal of Peasant Studies* 37, no. 1 (January 2010): 91–109, <https://doi.org/10.1080/03066150903498770>.

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- <sup>viii</sup> i.e. Lindsay Mayka, *Building Participatory Institutions in Latin America: Reform Coalitions and Institutional Change* (Cambridge: Cambridge University Press, 2019); Steven Levitsky and María Victoria Murillo, “Building Institutions on Weak Foundations,” *Journal of Democracy* 24, no. 2 (2013): 93–107, <https://doi.org/10.1353/jod.2013.0031>.
- <sup>ix</sup> See Jaskoski, “Participatory Institutions as a Focal Point for Mobilizing.”
- <sup>x</sup> Patricia I. Vasquez, *Oil Sparks in the Amazon: Local Conflicts, Indigenous Populations, and Natural Resources*, Studies in Security and International Affairs (Athens: University of Georgia Press, 2014), Ch. 4; Gonzalo A Vargas, “Social Mobilisation in Colombia’s Extractive Industries, 2000–2015,” *The Extractive Industries and Society*, June 13, 2019, <https://doi.org/10.1016/j.exis.2019.06.002>; Luis Jorge Garay-Salamanca et al., “Minería En Colombia: Fundamentos Para Superar El Modelo Extractivista” (Bogotá, Colombia: Contraloría General de la República, April 2013).
- <sup>xi</sup> Garay-Salamanca et al., “Minería En Colombia.”
- <sup>xii</sup> John-Andrew McNeish, “Extracting Justice? Colombia’s Commitment to Mining and Energy as a Foundation for Peace,” *The International Journal of Human Rights* 21, no. 4 (May 4, 2017): 504, <https://doi.org/10.1080/13642987.2016.1179031>; Nubia Yaneth Ruiz Ruiz, Mercedes Castillo de Herrera, and Karen Forero Niño, *Geopolítica del despojo: Minería y violencia en Colombia* (Bogotá: Universidad Nacional de Colombia, 2018); Juan Manuel Santos, “Palabras Del Presidente Juan Manuel Santos En La Clausura Del Congreso Nacional de Minería 2017” (Congreso Nacional de Minería, Cartagena, May 12, 2017), <http://es.presidencia.gov.co/discursos/170512-Palabras-del-Presidente-Juan-Manuel-Santos-en-la-clausura-del-Congreso-Nacional-de-Mineria-2017>.
- <sup>xiii</sup> Vargas, “Social Mobilisation in Colombia’s Extractive Industries, 2000–2015,” 2.
- <sup>xiv</sup> Martha Cecilia García, “Protestas Relacionadas Con La Minería En Colombia 2000-2015,” Country Report (Bogotá: CINEP/PPP, September 2017) It is worth noting that these protests took place in the context of a broader wave of mobilizations in Colombia across a variety of issues (Cruz, 2014). The share of mining-related protests during this wave was relatively small (5.3 percent of all protests nationwide according to Vargas [2019]). That said, they represented a substantial increase relative to previous levels of contention related to extractives. .
- <sup>xv</sup> Philippe Le Billon, María Cecilia Roa-García, and Angelica Rocío López-Granada, “Territorial Peace and Gold Mining in Colombia: Local Peacebuilding, Bottom-up Development and the Defence of Territories,” *Conflict, Security & Development* 20, no. 3 (May 3, 2020): 303–33, <https://doi.org/10.1080/14678802.2020.1741937>; Diana Rodríguez-Franco, “Participatory Institutions and Environmental Protection: Popular and Prior Consultations in Latin America” (Ph.D., Evanston, IL, Northwestern University, 2017).
- <sup>xvi</sup> Irene Vélez-Torres, “Governmental Extractivism in Colombia: Legislation, Securitization and the Local Settings of Mining Control,” *Political Geography* 38 (January 1, 2014): 68–78, <https://doi.org/10.1016/j.polgeo.2013.11.008>; Juan Diego Álvarez, “Governing Mining Resources in the History of Colombia: Between Official Institutions and Resistance,” *Law and Development Review* 9, no. 1 (January 16, 2015): 29–67, <https://doi.org/10.1515/ldr-2015-0022>.
- <sup>xvii</sup> See Rodríguez-Franco, “Participatory Institutions and Environmental Protection” for an in-depth recounting of Piedras’s conflict with AngloGold Ashanti and local activists’ decision to employ the popular consultations. .
- <sup>xviii</sup> All movements to hold a popular consultation related to extractives that I identified were explicitly opposed to extractive project development.
- <sup>xix</sup> Interview #1515 with environmental lawyer; Bogotá, Colombia, December 2019
- <sup>xx</sup> Frances Kahn Zemans, “Legal Mobilization: The Neglected Role of the Law in the Political System,” *American Political Science Review* 77, no. 03 (September 1983): 690–703, <https://doi.org/10.2307/1957268>.
- <sup>xxi</sup> Falleti and Riofrancos, “Endogenous Participation Strengthening Prior Consultation in Extractive Economies,” 91.
- <sup>xxii</sup> Levitsky and Murillo, “Building Institutions on Weak Foundations,” 105.
- <sup>xxiii</sup> Diana Kapiszewski, Steven Levitsky, and Deborah J. Yashar, eds., *The Inclusionary Turn in Latin American Democracies*, 1st ed. (Cambridge University Press, 2021), <https://doi.org/10.1017/9781108895835>; Falleti and Riofrancos, “Endogenous Participation Strengthening Prior Consultation in Extractive Economies,” 87.
- <sup>xxiv</sup> Kristina Dietz, “Consultas Populares Mineras En Colombia: Condiciones de Su Realización y Significados Políticos. El Caso de La Colosa,” *Colombia Internacional*, no. 93 (January 2018): 101, <https://doi.org/10.7440/colombiaint93.2018.04>.
- <sup>xxv</sup> There are some exceptions to this rule. In the 1990s, a group of NGOs led the organization of consultations in six municipalities in the country’s north that sought citizens’ approval to declare their municipalities as “neutral ground” in the country’s armed conflict (MOE, 2012). These mobilizations, however, failed to reach the necessary quorum of 33 percent of the electorate to be considered valid by the National Registry.

- xxvi Goldfrank, “Inclusion Without Power? Limits of Participatory Institutions,” 123–24.
- xxvii Kapiszewski, Levitsky, and Yashar, *The Inclusionary Turn in Latin American Democracies*, 6.
- xxviii Mayka, *Building Participatory Institutions in Latin America*.
- xxix Benjamin Goldfrank, *Deepening Local Democracy in Latin America: Participation, Decentralization, and the Left* (University Park: The Pennsylvania State University Press, 2011).
- xxx Wampler, *Participatory Budgeting in Brazil*.
- xxxi Mayka, *Building Participatory Institutions in Latin America*, 2.
- xxxii Rodriguez-Franco, “Participatory Institutions and Environmental Protection.”
- xxxiii Jaskoski, “Participatory Institutions as a Focal Point for Mobilizing.”
- xxxiv Jaskoski, 539.
- xxxv Levitsky and Murillo, “Building Institutions on Weak Foundations,” 97.
- xxxvi Charles Edward Lindblom, *Politics and Markets: The World’s Political Economic Systems* (New York: Basic Books, 1977).
- xxxvii Tasha Fairfield, “Structural Power in Comparative Political Economy: Perspectives from Policy Formulation in Latin America,” *Business and Politics* 17, no. 3 (October 2015): 420, <https://doi.org/10.1515/bap-2014-0047>.
- xxxviii Interview #7323, environmental activist, Bogotá, October 2019.
- xxxix Lindblom, 1977 in Yanilda María González, *Democratic Processes and Authoritarian Policing in Latin America: Contested Security in Latin America* (Cambridge: Cambridge University Press, 2021), 37.
- xl Fairfield, “Structural Power in Comparative Political Economy.”
- xli Laura Bernal-Bermúdez, “The Power of Business and the Power of People: Understanding Remedy and Business Accountability For Human Rights Violations--Colombia 1979-2014” (Oxford, University of Oxford, 2017); Jaskoski, “Participatory Institutions as a Focal Point for Mobilizing.”
- xlii Vasquez, *Oil Sparks in the Amazon*; Dirección Nacional de Planeación, “Plan Nacional de Desarrollo 2014-2018, Todos por un Nuevo País” (2014); McNeish, “Extracting Justice?”
- xliii It is worth noting that I do not include connections to transnational advocacy networks (TANS) in my analysis. See Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, UNITED STATES: Cornell University Press, 1998), <http://ebookcentral.proquest.com/lib/oxford/detail.action?docID=3138636> I only identified two cases (Piedras and Cajamarca) out of my sample of 102 that had clear connections with international organizations. I therefore concluded that there was not enough variation in the dataset to justify inclusion.
- xliv Rose J. Spalding, “Horizontalism and the Anti-Mining Movement,” in *Rethinking Latin American Social Movements: Radical Action from Below*, ed. Richard Stahler-Sholk, Harry E. Vanden, and Marc Becker, 2nd ed., Latin American Perspectives in the Classroom (Lanham: Rowman & Littlefield, 2014), 312–239.
- xlv Peter Haas, “Epistemic Communities,” in *Oxford Handbook of International Environmental Law*, ed. Daniel Bodansky, Jutta Brunnée, and Ellen Hey (Oxford: Oxford University Press, 2008), 783.
- xlvi Article 52 of Law 134 of 1994. The council must commission a report evaluating the validity of the proposed referendum and confirm that the proposal meets constitutional requirements before the proposal moves onto the next stage.
- xlvii Interview #7323-2, online, August 2021
- xlviii See Mayka, *Building Participatory Institutions in Latin America* ch. 4.
- lix The stages of progress as I have coded them are unidirectional and linear. Once a mobilization reaches a higher stage, it cannot move backwards along the continuum. New mobilizations, however, can emerge in the same municipality when previous efforts stall or fail (as occurred in Cajamarca, Tolima in 2016). I code these as separate cases, as the socio-political environment, leaders, and pathway of activation often look different between attempts.
- <sup>1</sup> John D. McCarthy and Mayer N. Zald, “Resource Mobilization and Social Movements: A Partial Theory,” *American Journal of Sociology* 82, no. 6 (1977): 1212–41; Holly J. McCammon and Allison R. McGrath, “Litigating Change? Social Movements and the Court System,” *Sociology Compass* 9, no. 2 (February 1, 2015): 128–39, <https://doi.org/10.1111/soc4.12243>; William L.F. Felstiner, Richard L. Abel, and Austin Sarat, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .,” *Law & Society Review* 15, no. 3/4 (1980): 631–54, <https://doi.org/10.2307/3053505>.
- li Sidney G. Tarrow, *Power in Movement: Social Movements and Contentious Politics*, Rev. & updated 3rd ed., Cambridge Studies in Comparative Politics (Cambridge ; New York: Cambridge University Press, 2011).
- lii Charles Tilly, *From Mobilization to Revolution* (Reading, Mass. ; London: Addison-Wesley, 1978); Mayer N Zald and Roberta Ash, “Social Movement Organizations: Growth, Decay, and Change,” *Social Forces* 44, no. 3 (1966): 327–41, <https://doi.org/10.1093/sf/44.3.327>; John D. McCarthy, “Constraints and Opportunities in Adopting, Adapting, and Inventing,” in *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing*

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*Structures, and Cultural Framings*, ed. Doug McAdam, John D. McCarthy, and Mayer N. Zald, Cambridge Studies in Comparative Politics (Cambridge: Cambridge University Press, 1996).

<sup>liii</sup> I recognize that GDP is an imperfect proxy for resources—where GDP is high, wealth may be concentrated in the hands of a small number of elites rather than distributed evenly (and therefore accessible to movement leaders).

With that said, mobilizations rarely get off the ground without some level of support from local elites, possibly mitigating this measurement issue. NBI serves as a useful indicator for the ability of potential movement constituents to devote time and energy to the cause. Simply, where the NBI is high, potential supporters of the *consulta* may opt out of the movement in order to focus on survival. Reduced participation, in turn, could diminish pressure on both local governments and activists to continue to organize a vote. The share of royalties a municipality receives, meanwhile, could have a dampening effect on movement progress. Where municipal resources come from extractive activities, those resources are unlikely to be used to oppose those same projects.

<sup>liv</sup> I purposefully include both lethal and non-lethal forms of violence in my measure. This reflects how the type of violence armed groups carry out may vary according to the degree of control they exert over a territory. See Stathis N. Kalyvas, *The Logic of Violence in Civil War*, Cambridge Studies in Comparative Politics (Cambridge ; New York: Cambridge University Press, 2006).

<sup>lv</sup> Andrew S. Fullerton, “A Conceptual Framework for Ordered Logistic Regression Models,” *Sociological Methods & Research* 38, no. 2 (November 2009): 306–47, <https://doi.org/10.1177/0049124109346162>.

<sup>lvi</sup> Shawn Bauldry, Jun Xu, and Andrew S. Fullerton, “Gencrm: A New Command for Generalized Continuation-Ratio Models,” *The Stata Journal: Promoting Communications on Statistics and Stata* 18, no. 4 (December 2018): 924–36, <https://doi.org/10.1177/1536867X1801800410>.

<sup>lvii</sup> Bernal-Bermúdez, “The Power of Business and the Power of People.”

<sup>lviii</sup> Matthew Amengual, “Buying Stability: The Distributive Outcomes of Private Politics in the Bolivian Mining Industry,” *World Development* 104 (April 2018): 31–45, <https://doi.org/10.1016/j.worlddev.2017.11.008>.

<sup>lix</sup> Interview #8743, industry analyst (Bogotá, October 2019).

<sup>lx</sup> This finding is not necessarily applicable on the national level. While local governments may have supported community movements, national government representatives continued to pressure community leaders to abandon the popular consultation. In some cases, this tension pitted local governments against the national government. The national Procuraduría (public prosecutor) opened investigations into at least four local mayors, accusing them of overstepping their mandate by introducing proposals to hold popular consultations “Dos pueblos desafían a la Registraduría,” Text, ELESPECTADOR.COM, November 22, 2018, <https://www.elespectador.com/noticias/medio-ambiente/dos-pueblos-desafian-la-registraduria-articulo-825142>.

<sup>lxi</sup> Le Billon, Roa-García, and López-Granada, “Territorial Peace and Gold Mining in Colombia”; Frédéric Massé and Philippe Le Billon, “Gold Mining in Colombia, Post-War Crime and the Peace Agreement with the FARC,” *Third World Thematics: A TWQ Journal* 3, no. 1 (January 2, 2018): 116–34, <https://doi.org/10.1080/23802014.2017.1362322>.

<sup>lxii</sup> Gabriel Corredor, “Periodismo Precario,” *FLIP Centro de Estudios*, 2020, <https://flip.org.co/cartografias-informacion/content/periodismo-precario>.

<sup>lxiii</sup> Telephone interview #3565, community activist (August 2019).

<sup>lxiv</sup> Gerd Schonwalder, “New Democratic Spaces at the Grassroots? Popular Participation in Latin American Local Governments,” *Development and Change* 28, no. 4 (October 1997): 755, <https://doi.org/10.1111/1467-7660.00063>.

<sup>lxv</sup> Interview #2982, NGO representative (Bogotá, December 2019).

<sup>lxvi</sup> Interview #7400 NGO representative (Bogotá, December 2019).

<sup>lxvii</sup> Interview #2982 NGO representative (Bogotá, December 2019).

<sup>lxviii</sup> Article 52 of Law 134 of 1994. The council must commission a report evaluating the validity of the proposed

referendum and confirm that the proposal meets constitutional requirements before the proposal moves onto the next stage.

<sup>lxix</sup> Law 1757 of 2015.

<sup>lxx</sup> Outlined in articles 29, 228-230 of the Political Constitution of 1991.