

“The Strategic Use of the National Law Against Transnational Mining Projects in Peru” – Dissertation Project Proposal

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The dissertation project forms part of the SNF-funded research project “Law in Protest: Transnational Struggles for Corporate Liability” (under the supervision of Prof. Julia Eckert, Institute of Social Anthropology, University of Bern, Switzerland).

1. Summary of the project “Law in Protest: Transnational Struggles for Corporate Liability”

Negative impacts on the environment and on the livelihood of local populations caused by transnational corporations (TNCs) operating in the so-called Global South have become a politically contested issue. Holding the companies involved or their employees legally liable has often been difficult because of jurisdictional or governance obstacles. Regardless the difficult legal situation, there are worldwide growing attempts to bring TNCs to court for violations of human rights or for serious environmental damages. By referring to a transnational discourse of human rights and by using international narratives of law and justice, local protest groups make use of law as an instrument to legitimize their claims and to gain international support for their struggles. In most of the court cases social movements, non-governmental organisations (NGOs) and transnational networks of human rights lawyers play a major role. These networks often include not only European cause lawyers and the concerned plaintiffs in the operation area of the defendant TNC, but also link plaintiff groups, local NGOs and lawyers of independent court cases in different countries.

A considerable gap in research exists concerning how advocacy organisations and local plaintiffs influence each other with respect to normative evaluation, political goals and litigation strategies. The project “Law in Protest: Transnational Struggles for Corporate Liability” enquires into these changes, examining the normative change born from these litigation processes both among local plaintiffs and in the legal norms adopted to litigate against TNCs. Our project assumes that lawsuits and the practices of “case-making” are social processes that, on the one hand, reflect existing power relations between actors involved, but, on the other hand, provide space for negotiations about norms, interpretations and goals.

By conducting empirical ethnographic research on the work of lawyers and human rights activists in different settings and places, the overarching aim of the project is to find out whether the strategic application of national law leads to normative - legal as well as social - change. We content that by a) enquiring into the evolving strategies of local plaintiffs using national laws against TNCs, b) the strategic litigation of cause lawyering by transnational

legal NGOs, and c) the relationships between these different actors involved in the court cases we can gain insights into the normative changes occurring at these different levels. We will analyse the practice of strategic litigation applied by cause lawyers in Germany and the United Kingdom (dissertation project of Amadea Tschannen) as well as by social movements and local NGOs in Peru (my project). We investigate how local protest movements and international law firms introduce transnational discourses of human rights and social justice into individual national court cases with the intent to enforce social and political change on the local level. By studying these transnational human rights networks in the field of corporate liability, the project deals with a key issue of contemporary social anthropology.

2. Theoretical background of the two dissertation projects

2.1. Transnational corporations and criminal liability

In recent years, negative impacts on the environment and on the livelihood of local populations caused by transnational corporations (TNCs) operating in the so-called Global South have become a politically contested issue. Various of the world's leading mining and oil companies have been accused over the past years for causing environmental damages, directly violating human rights or for being complicit in human rights abuses committed by national governments (Skinner *et al.* 2013, 81–99). Holding the companies involved or their employees legally liable has often been difficult because of jurisdictional or governance obstacles. In the TNCs' *host states* – mainly countries of the Global South where the companies themselves or their subsidiaries operate – corruption and weak governance structures impede the enforcement of law and regulations. In the corporations' *home states* – mostly European or North American states where the TNCs' headquarters are located – the limited jurisdiction of the courts and the complexity of the cases in general make legal proceedings complicated.

These practical barriers and jurisdictional obstacles of litigating against TNCs have recently become a major issue in legal sciences (e.g. Meeran 2011, 2013, Skinner *et al.* 2013, Baughen 2015). In social anthropology, important contributions were made in this field of research by Stuart Kirsch's (i.a. 1996, 1997, 2001, 2007, 2014) study on industrial mining in Papua New Guinea, by Suzana Sawyer's (2005) ethnography on the activities of U.S. oil companies in the Ecuadorian Amazon or by Kim Fortun's (2001) research on the Bhopal disaster. Apart from these important social anthropological contributions, both the social and the legal changes triggered by these litigation processes have remained largely unexplored. So far, the few studies existing on the working practices of cause lawyers¹ and law firms

¹ According to Sarat and Scheingold (1998, 3) cause lawyers seek to "reconnect law and morality and make tangible the idea that lawyering is a 'public profession,' one whose contribution to society goes beyond the

suing TNCs in European home states are nearly exclusively written by the participating actors themselves (Kaleck 2008, Kaleck and Saage-Maaß 2010, Meeran 2011, 2013). A further considerable gap in research has remained concerning the particular strategies of the litigant parties locally and how these mutually influence each other in the court cases in the TNCs' home and host states. Our submitted project enquires into these changes, examining the normative change born from these litigation processes both among local plaintiffs and possibly in the legal norms adopted to litigate against TNCs. We content that by a) enquiring into the evolving strategies of local plaintiffs using national laws against TNCs, b) the strategic litigation of cause lawyering by transnational legal non-governmental organisations (NGOs), and c) the relationships between these different actors involved in the court cases we can gain insights into the normative changes occurring at these different levels. The objective is to explore the mutual relationship between the different actors involved in legal proceedings against TNCs and to investigate how these actors influence each other in their way of using national law and legislations. Thus, we will examine how human rights activists in different countries make strategically use of national legislation to hold TNCs legally liable for criminal offences. We will analyse the practice of strategic litigation² applied by cause lawyers in Germany and the United Kingdom as well as by social movements and local NGOs in Peru. We investigate how local protest movements and international law firms introduce transnational discourses of human rights and social justice into individual national court cases with the intent to enforce social and political change on the local level.

Based on the concept of "law in action" (Pound 1910, Nelken 1984) and thus understanding law as socially constructed and embedded in different cultural and political contexts, the project will work with methods of legal anthropology to analyse the processes of using different national legal norms to further transnational corporate liability. Following the work of Thomas Scheffer (2010, 17), the project starts from the assumption that law is more than just a set of rules or norms, but gains force through a number of social mechanisms that incorporate lawsuits, rules and judgements. Our project assumes that lawsuits and the practices of "case-making" are social processes that, on the one hand, reflect existing power relations between actors involved, but, on the other hand, provide space for negotiations about norms, interpretations and goals. By conducting empirical ethnographic research on the work of lawyers and human rights activists in different settings and places, the overarching aim of the project is to find out whether the strategic application of national law leads to normative - legal as well as social - change. The project will thus contribute to

aggregations, assembling, and deployment of technical skills." Cause lawyers, in this sense, use their professional work as a vehicle to bring about social change (Sarat and Scheingold 1998, 3).

² Litigation means taking cases to court and can be understood as a form of legal advocacy. Strategic litigation is a method that can bring about significant changes in law and focuses on changing policies and broader patterns of behaviour. Individual cases are strategically selected and taken to court with the intention to bring about social change.

important current debates in legal anthropology on the emergence and institutionalisation of norms in an increasingly transnational legal order.

2.2. The global “Governance Gap”

As transnational business actors, TNCs are theoretically subject to different national jurisdictions. However, their organisational structure – consisting of parent groups with different subsidiaries, joint ventures, foreign affiliates and other business entities – often impedes a clear attribution of legal responsibility. In their home states, it is argued with reference to the legal doctrine of *forum non conveniens* that extraterritorial cases of human rights violations should be prosecuted in the countries where the offences took place rather than in the states where the TNCs’ headquarters are located (Deva 2012, 117). It is claimed that by investigating foreign cases of human rights abuses, the home states would violate the sovereignty of other states and would impose a regime of “legal imperialism” (Simons and Macklin 2014, 19, 178, Shamir 2004, 643, 653). Further barriers in home states are the challenge of establishing a causal link between the crime committed in the operation area and the activities of the headquarter in the home state (Simons and Macklin 2014, 207), high financial costs (Meeran 2011, 17f., Kirsch 2014, 85), a lack of access to relevant information concerning intern company procedures (Meeran 2013, 393), or simply difficulties in effectively proving the committed offence and to collect enough evidences (Kaleck and Saage-Maaß 2010, 722). As a consequence, the number of cases in which parent companies or their employees have been sentenced for crimes committed abroad is rather scarce (Kaleck and Saage-Maaß 2010, 701).

In addition, in the TNCs’ operation areas or host states, human rights violations and serious environmental damages often remain unprosecuted due to weak governance structures and low enforcement of existing national law (Simons and Macklin 2014, 181). Fragile civil societies and state structures, widespread corruption, the plaintiffs’ lack of financial resources as well as tenuous security situation and the intimidation of victims represent major obstacles for bringing TNCs to court in host states (Kaleck and Saage-Maaß 2010, 715, Meeran 2013, 382, Skinner *et al.* 2013, 23f., Saage-Maaß 2014, 15f.). Despite the efforts made by national and international actors in recent years to establish binding frameworks or voluntary guidelines for corporate responsibility, the attribution of legal liability to TNCs continues to be very difficult in its practical implementation and is thus a controversial issue in contemporary political as well as legal debates. Baughen (2015, 2), Simons and Macklin (2014, 9–13) and others termed the shortcomings of the currently existing regulation and sanction mechanisms as “Governance Gap”, which is produced by a global inadequacy of regulation measures to create binding corporate liability and by the

mentioned difficulties in the enforcement of existing law and the lack of access to remedy for victims of corporate offences.

2.3. Transnational human rights movements and the use of law “from below”

Regardless the difficult legal situation, there are worldwide growing attempts to bring TNCs to court for violations of human rights or for serious environmental damages (Kirsch 2014, 84f.). In recent years, an increasing global juridification of not only transnational social movements but social and political protest in general has been observed. As Julia Eckert (2012) has shown in her study on the slums in Bombay, India, subaltern groups use ideas of justice in general and citizenship rights in particular in order to achieve their goals in everyday interactions with state representatives and institutions. With reference to the theory of James Scott (1985), Eckert categorised this use of law as a “weapon of the weak” (2006, 45f.). In contrast to so-called hegemony theorists, Eckert as well as, for example, Kirsch (2014, 87) have argued that the strategic use of law enables marginalised groups to challenge powerful elites and in some instances leads to normative but also to social change. Despite unfavourable preconditions, people turn to courts to address their demands and to require a response of government institutions and state officials (Galanter 1997, 19, Eckert 2012, 152). In this context, Balakrishnan Rajagopal (2003a, xiii) called up for studies that describe from the point of view of marginalised groups how legal norms evolve and advocated the development of “a theory of resistance” written from below (2003b, 162, see also Chimni 2007, Anghie and Chimni 2003, Kamphuis 2011, 576f.).

By referring to a transnational discourse of human rights and by using international narratives of law and justice, local protest groups make use of law as an instrument to legitimize their claims and to gain international support for their struggles. Activists of the Global South articulate their specific local demands in a language understandable worldwide and link their particular claims to broader international debates on human rights and global justice (Eckert *et al.* 2012a, 2). The attempts of local advocacy groups to proceed against TNCs have to be understood in this broader context. These networks of activists and social movements make use of national legislations and denounce the violation of specific articles of national law texts. At the same time they rely on international discourse about human rights and build transnational protest networks. In most of the court cases social movements, NGOs and transnational networks of human rights lawyers play a major role. These networks often include not only European cause lawyers and the concerned plaintiffs in the operation area of the defendant TNC, but also link plaintiff groups, local NGOs and lawyers of independent court cases in different countries (Kirsch 2014, 85f.). Legal proceedings in home as well as in host states are often accompanied by political lobbying, information campaigns, protest actions and the mobilisation of social movement activists (Santos/Rodríguez-Garavito 2005,

15). In this sense, the litigant parties have to be seen as part of what Castells called “a global social movement for global justice” (2005, 13) or what Santos (2002, 459, 2005, 29f.) termed as “counter-hegemonic globalization movements”. Transnational human rights movements attempt to prompt international debates on TNCs and their responsibility towards local populations by establishing global networks, by sharing strategies, objectives and information worldwide as well as by coordinating joint activities (Szablowski 2002, 247, Kirsch 2007, 303).

By studying transnational human rights networks, the project deals with a key issue of contemporary social anthropology. Much has been written in recent social anthropological scholarship about how other types of transnational movements, i.e. women’s, environmental or indigenous peoples movements, emerged. We argue that local strategies of human rights movements to hold TNCs liable should be analysed in the context of this broader research field. The main focus in previous studies on transnational movements was on how activists built up global networks “from below” and how they exchanged thoughts, strategies and political ideas (Smith 1997, Kirsch 2007, 313, Bebbington 2012, 69f.). Keck and Sikkink (1998) described this phenomenon in their well-known work about “activists beyond borders”. Important features of these activist networks are the diversity of actors gathered together and the particular importance of local and international NGOs in most of the movements (Sikkink 2002, Rodríguez-Garavito 2005, 66, Merry 2003, 969, Martínez-Alier 2002, 206). This raises questions as to representation, speaker-ship roles, and the different agendas of the different actors within those movements. The transnational movements’ characteristic as bottom-up movement struggling against dominant elites and for alternative conceptions of power and distribution as well as for “new forms of political representation of people’s will and interests in the process of global governance” (Castells 2005, 13) is complicated by these transnational power asymmetries within the movements, which affect issues of agenda setting and goal understanding (Eckert 2015).

The project is based on the consideration that the transnational collaboration between cause lawyers and social movements’ activists has a strong impact on the strategies and narratives of the actors involved. In this sense, both of our projects start from the assumption that, as Eckert et al. (2012b, 1) mentioned, “in the use of law, law transforms those who use it, their understanding of the world, of their conflicts and their normative orientations – in other words, their political subjectivities.” The aim of this research project is to focus on the two central stages of these transnational struggles and the related human rights campaigns. By doing so, we will examine how the actors’ interaction in such a global network shapes their narratives of conflict and their strategies for a solution.

3. Detailed research plan of my dissertation project

As mentioned above, local protest movements of the Global South increasingly refer to international debates on human rights and make strategic use of law and of national legislation, for example by bringing powerful TNCs to court and by combining these legal actions with international campaigns. The objective of my dissertation project is to analyse how two specific social movements in the Northern highlands of Peru use the national law in the context of transnational mining projects and how they collaborate with transnational human rights networks and introduce international debates on social justice into their own argumentation. Thus, while Amadea's dissertation project focuses on the European context, my project examines the other end of the spectrum of litigating for transnational corporate liability.

My proposed project will adopt an ethnographic approach and will analyse the use of law by Peruvian human rights activists in different processes of strategic litigation. I want to explore how those actors link their claims to international discourses of social justice and human rights. The innovation of the projects consists in examining the mutual relationships between the Peruvian activists and their international partners in global processes of strategic litigation and thus in shedding light on the reciprocal influence on their discursive strategies and legal approaches.

3.1. Field of research and research sites

Since the beginning of the nineties, Peru has undergone a radical neoliberal change. During ten years of autocratic leadership under former president Alberto Fujimori, the state has largely privatised its economy, removed trade barriers and facilitated the entry conditions for foreign direct investment. When the country returned to democracy in 2000, Peru was said to be one of the most open and liberal economics worldwide (Bury 2004, 80). The attraction of transnational mining companies was a key focus of Alberto Fujimori's economic programme; today, Peru is leading in the extraction of various mineral resources (INEI 2015). As a consequence of the expansion of the industrial mining sector to ever more remote areas and the related increased consumption of land and water in combination with negative environmental and social impacts the number of social conflicts between parts of the local population on the one hand and the national government and mining companies on the other has increased drastically (Li 2009, 218f., Hoetmer 2013, 267).

To control and to reduce the social conflicts, the current and the previous Peruvian governments enacted a broad range of laws that made protest actions a punishable offence and criminalised the social movements' activities. Especially the leaders of protest movements are meanwhile often faced with the prosecution by increasingly repressively acting state authorities (Silva Santisteban 2013, 447, Vásquez 2013, 423–425). At the same

time, local protest groups and NGOs adopted the strategy of litigation and turned to regional and national courts to take legal actions against mining companies and state officials. Charges were brought against TNCs because of environmental damages and disputes over land and water rights, but also against police officers or private security forces contracted by mining companies because of personal injury and even homicide committed during clashes with protesters.

As I have already shown in my master thesis on the project Minas Conga, a mining project in the region of Cajamarca in the Northern highland of Peru, the members of social movements refer in their argumentation towards the national government and the mining companies strongly to their rights as Peruvian citizens. By analysing two different mining conflicts – the project Minas Conga in Cajamarca and the project Río Blanco in Piura – my dissertation project's objective is to analyse the social movements' activists strategies and approaches to challenge the economic and political power structures in Peru by using the national legislation and by combining specific national court cases with transnational human rights campaigns.

In both of the social conflicts selected as case studies, the construction of a new industrial mine operated by a TNC is at the centre of the debate. The project Minas Conga in Cajamarca is an expansion project of an already existing gold mine, which is operated by the TNC Yanacocha.³ The Río Blanco mine in Piura, in contrast, is proposed in a region where the extractive industry is not yet present. The British company Monterrico Metals has started the project. Today Río Blanco is a subsidiary of the Chinese consortium Xiamen Zijin Tongguan. Both projects unleashed conflicts in the regions concerned and are at the moment suspended as a result of the local populations' resistance.

While the region of Cajamarca looks back on a 25-year long experience with transnational mining projects, the establishment of the Río Blanco project would constitute a new development in Piura. The dissertation project will analyse a social movement that recently emerged and a well-established one. The two social movements have various characteristics in common: Firstly, they share a similar composition in terms of activists involved. Peasant, women and environmental organisations, local NGOs, student activists and regional political parties are the major actors in both movements. Secondly, and most importantly for the project, both social movements pursue the strategy of using national and transnational human rights networks and mobilise partner NGOs and civil society groups in other parts of Peru and Latin America as well as in Europe and North America. This international network is not only important for establishing outside pressure on the national government and on the involved TNCs, but also for rendering assistance to legal actions brought to national courts in Peru. The social movement in Cajamarca, for example, collaborates with the US NGO

³ Yanacocha's shareholders are the US consortium Newmont Mining, the Peruvian company Buenaventura and the World Bank's International Finance Corporation (IFC).

EarthRights International, which in turn takes legal proceedings against Yanacocha's main shareholder Newmont Mining in the USA. The lawyers involved make use of US Foreign Legal Assistance (FLA) statute and by doing so try to influence the litigation process in Peru. In the case of the Río Blanco project, in 2009 Peruvian lawyers in collaboration with the British law firm Leigh Day brought a case against the UK parent company Monterrico Metals to the High Court of Justice in England (Kamphuis 2011, 546, Skinner *et al.* 2013, 96). The parent company was accused of complicity in the torture and mistreatment of activists who were held detained and maltreated by private security forces and the national police within Río Blanco's mine site (Gloser 2009, 2010, Meeran 2011, 40). Both social movements thus combine national litigation with international legal actions and strategically combine litigation in Peru with transnational campaigns. They collaborate with those types of advocacy groups analysed in Amadea's dissertation project and thereby create a so-called "boomerang pattern of influence" (Keck and Sikkink 1998, 12) to bring outside pressure on the Peruvian nation state. They differ, however, in their specific movement histories and in regard to the extent of their involvement in transnational human rights networks. By comparing these two movements, the impact of the integration of human rights discourses in local strategies can be explored more thoroughly.

3.2. Research questions

The dissertation project's central aim is to analyse the social movements' legal strategies against transnational mining corporations, how they use the national law as an instrument to challenge industrial mine projects and how they link particular national court cases with transnational human rights campaigns. I will analyse the legal content of the social movements' lawsuits against the two mining corporations. Particularly, it will be analysed on what specific norms of the national legislation they rely on in court and which legal strategies they apply. Regarding this research goal of the dissertation project, the following questions will be addressed:

a) What kind of legal approaches do Peruvian social movements' activists use to hold transnational mining corporations liable for human rights violations or for environmental damages? To which specific legal norms or articles of the national legislation do they refer in a specific case and at a certain point in the process? What strategies do they apply to bypass existing formal obstacles and practical barriers existing in the Peruvian justice system to sue TNCs or other corporate actors?

Local advocacy NGOs in Peru try to use the law in a strategically way to generate social and political change. It is evident that the goal of bringing TNCs to local courts is not only to give justice to the victims directly affected of the committed offence, but also to challenge the actual neoliberal orientation of the Peruvian national government. The legal actions taken by

local NGOs in the context of two social conflicts can thus be seen as a means to achieve overarching aims. My dissertation project will explore the correlation between the organisations' broader mission and the court cases. In this context, a further objective of the project is to identify patterns in the activists' selection and preparation of cases. It is assumed that some criminal offences are more likely to be taken up by the NGOs' lawyers than others because they correspond to their broader legal strategies. My project's research questions to analyse this strategic use of the national law are as follows:

b) How do local advocacy NGOs in Cajamarca and Piura choose and determine the individual cases they bring to court? Do these processes of selecting and preparing cases follow specific patterns? How have these patterns evolved over the last fifteen years?

The strategy of turning to the law in the context of social conflicts is not only applied by the social movements, but also by the Peruvian public authorities. As social protests against transnational mining projects have recently led to political unrest in various regions of the country, the national government enacted a broad range of decrees and regulations to control and to reduce social conflicts. Some of these new laws made protest actions a punishable offence and criminalised the social movements' activities. The regional representatives of the central state make increasingly use of these legislative instruments. Consequently, members of protest movements are today often faced with prosecution by an increasingly repressive acting central state (Silva Santisteban 2013, 447, Vásquez 2013, 423–425). Due to its neoliberal policies in general and the tightening legislation concerning social conflicts in particular, Peru can be seen as example of a country where the law is used by political and economic elites as an instrument to prevent social change and to preserve privileges for powerful business actors. As both conflict parties – the social movements and the public authorities – use the law in a strategically manner, courtrooms in Peru have been transformed to one of the most central stages of the country's social conflicts. The effects of the state authorities' use of law against the social movements will be addressed in the following research questions:

c) To what extent does the national justice system represent a mechanism of the national government and the public authorities to stop social conflicts? To what extent does the justice system hence pose a threat for the social movements? How does the national government's practice of changing the legislation and of prosecuting activists affect the legal strategies of the two social movements?

As mentioned above, both of the social movements analysed in the dissertation project built international networks to make their claims heard abroad and to establish outside pressure on the national government and the involved mining corporations. They will thus be examined as local examples of transnational human rights movements. Concerning these

transnationalization of the Peruvian protest movements and their collaboration with foreign support groups and international NGOs, my project will focus on the following questions:

d) What impact does the internationalisation of the protests have on the local strategies of using the national law against TNCs? Do international NGOs and foreign support groups have an influence on the strategies of the Peruvian NGOs in general and on their legal procedures in particular? How do the Peruvian NGOs adjust their argumentation concerning the individual court cases to fit into the transnational discourses and what do they expect from this use of an international “language of human rights”?

3.3. Data collection

In order to answer the research questions, my project will apply an ethnographic mixed method approach. Data will be collected primarily in Peru during two longer field trips in the first and the second year. In addition, information concerning the transnational dimension of the social conflicts will be gained during a shorter stay in London at the beginning of the second year.

Three different types of information are needed to answer the research questions:

1. Data on the court cases concerning the two mining projects Minas Conga and Río Blanco: Thirteen exemplary lawsuits relating to the mining projects in Cajamarca and in Piura have been determined. Approximately half of the cases were brought to court by members of the social movements against the mining corporations or security forces contracted by the companies. In the remainder of the cases, the public authorities took legal actions against members of the social movements referring to laws to prevent social conflicts. Detailed information will be gathered on the legal content of the court cases, the legal processes, the actors involved, and the specific legal actions taken. These data is necessary to answer research *questions a)* which examines the legal approaches of the social movements and the formal obstacles and practical barriers they face as well as research *questions c)* which deals with the state authorities' use of law against the social movements.

2. Detailed information on the social movements and the NGOs involved in the two social conflicts: These data is necessary to answer the research questions concerning the legal approaches and strategies of the social movements (*questions a)*, concerning the advocacy NGOs' major objectives and their practice of selecting and preparing court cases (*questions b)*, concerning the impacts of the state authorities' legal actions on the strategies of the social movements (*questions c)*, and concerning the influence of the international partner organisations on the social movements' argumentation and strategies (*questions d)*.

3. Data on the international partner organisations and foreign lawyers cooperating with the Peruvian social movements: These data is needed to answer *questions d)*, which deal with the internationalisation of the protest as well as with the international campaigns against the two mining projects.

The following NGOs and lawyer groups have been defined as main informants; all of them agreed to be participants of the research and to provide further assistance:

<ul style="list-style-type: none"> • GRUFIDES⁴: A local NGO which provides legal advice to the social movements' activists in Cajamarca and which was involved in most of the court cases concerning the project Minas Congas.
<ul style="list-style-type: none"> • FEDEPAZ⁵: A national NGO whose lawyers were involved in the court cases relating to the Río Blanco project in Piura. Their office is located Lima, but the employees maintain very close contacts to the local organisations and social movements in the region of Piura.
<ul style="list-style-type: none"> • EarthRights International: The country office of this international advocacy NGO in Lima provided legal assistance for the social movement of Cajamarca and took legal actions against the major shareholder of the mining company Yanacocha in the USA.
<ul style="list-style-type: none"> • Leigh Day & Co.: A law firm presenting transnational court cases against TNCs in the UK.
<ul style="list-style-type: none"> • Peru Support Group (PSG): A network of British researchers and activists interested in social conflicts in Peru. The PSG was particularly involved in the Río Blanco case and organised a field trip to Piura in the time when the case against Monterrico was brought to court in London.

The following methods will be applied to collect the needed data:

To collect data of the type 1	<ul style="list-style-type: none"> • Collection and revision of legal documents regarding the thirteen determined court cases. This archival research will be conducted, firstly, in the public archives in the region of Cajamarca and Piura and, secondly, in the internal archives of GRUFIDES and FEDEPAZ
	<ul style="list-style-type: none"> • Participatory observation within the office of GRUFIDES in Cajamarca and within the national office of FEDEPAZ in Lima
	<ul style="list-style-type: none"> • Semi-structured interviews and informal conversations with the lawyers of GRUFIDES and FEDEPAZ which prepared and presented the thirteen lawsuits before the courts and with legal advisors of the two NGOs involved in the court cases
	<ul style="list-style-type: none"> • Semi-structured interviews with representatives of national advocacy NGOs in Lima, e.g. the National Coordination for Human Rights, the Instituto de Defensa Legal and others
	<ul style="list-style-type: none"> • Semi-structured interviews in the cities of Cajamarca, Piura and Huancabamba and surrounding villages with social movements' activists involved in the thirteen court cases (with a special focus on the plaintiffs of the cases against the mining companies and on the defendants in the lawsuits filed by the state authorities)
To collect data of type 2	<ul style="list-style-type: none"> • Participatory observation within the office of GRUFIDES in Cajamarca and within the national office of FEDEPAZ in Lima
	<ul style="list-style-type: none"> • Semi-structured interviews and informal conversations with members of the social movements in the cities of Cajamarca and Piura as well as in surrounding villages, e.g. with members of the local peasant, women and students organisations
	<ul style="list-style-type: none"> • Semi-structured interviews with representatives of other local and national NGOs

⁴ Grupo de Formación e Intervención para el Desarrollo Sostenible (Training and Intervention Group for Sustainable Development)

⁵ Fundación Ecueménica para el Desarrollo y La Paz (Ecumenical Foundation for Development and Peace)

	working on social conflicts and mining in Peru, e.g. CooperAcción, Red Muqui, the Asociación de Servicios Educativos Rurales (SER) and others
To collect data of type 3	• Participatory observation within the country office of EarthRights International in Lima
	• Follow-up participatory observation within the offices of GRUFIDES and FEDEPAZ
	• Semi-structured interviews and informal conversations with employees of EarthRights International and with other international NGOs working in Peru, e.g. Oxfam, Natural Resource Governance Institute and others
	• Semi-structured interviews with the lawyers and activists of GRUFIDES and FEDEPAZ (with a special focus on those actors involved in the international court case in London and the collaboration with EarthRights International, respectively)
	• Semi-structured interviews with social movements' activists in the regions of Piura and Cajamarca involved in the international campaigns concerning the two mining projects
	• Semi-structured interviews in London with activists of the PSG and with Richard Meeran (lawyer of Leigh Day, who brought the Monterrico lawsuit to court in the UK)

4. References

- Anghie, A. and B.S. Chimni. 2003. Third World Approaches to International Law and Individual Responsibility in Internal Conflicts. *Chinese Journal of International Law*, 2(1), 77–103.
- Baughen, S. 2015. *Human Rights and Corporate Wrongs: Closing the Governance Gap*. Cheltenham, Northampton: Edward Elgar Publishing.
- Bebbington, A., ed. 2012. *Social Conflict, Economic Development and Extractive Industry: Evidence from South America*. London: Routledge.
- Bury, J. 2004. Livelihoods in Transition: Transnational Gold Mining Operations and Local Change in Cajamarca, Peru. *The Geographical Journal*, 170(1), 78–91.
- Castells, M. 2005. Global Governance and Global Politics. *PS: Political Science & Politics*, (01), 9–16.
- Chimni, B. 2007. A Just World Under Law: A View From the South. *American University International Law Review*, 22(2), 199–220.
- Deva, S. 2012. *Regulating Corporate Human Rights Violations: Humanizing Business*. London: Routledge.
- Eckert, J. 2006. From Subjects to Citizens: Legalism from Below and the Homogenisation of the Legal Sphere. *The Journal of Legal Pluralism and Unofficial Law*, 38(53-54), 45–75.
- Eckert, J. 2012. Rumours of Rights. In: J. Eckert, B. Donahoe, C. Strümpell, and Z.Ö. Biner, eds. *Law Against the State: Ethnographic Forays into Law's Transformations*. Cambridge: Cambridge University Press, pp. 147–70.
- Eckert, J. 2015. Practice Movements. In: D. Della Porta and M. Diani, eds. *The Oxford Handbook of Social Movements*. Oxford: University Press, pp. 567–77.
- Eckert, J., Z.Ö. Biner, B. Donahoe, and C. Strümpell. 2012. Introduction: Law's Travels and Transformations. In: J. Eckert, B. Donahoe, C. Strümpell, and Z.Ö. Biner, eds. *Law Against the State: Ethnographic Forays into Law's Transformations*. Cambridge: Cambridge University Press.
- Fortun, K. 2001. *Advocacy After Bhopal: Environmentalism, Disaster, New Global Orders*. Chicago: The University of Chicago Press.
- Galanter, M. 1997. The Displacement of Traditional Law in Modern India. In: M. Galanter, ed. *Law and Society in Modern India*. Delhi: Oxford University Press, pp. 15–36.
- Gloser, E. 2009. *Judgmet: Guerrero & Ors v Monterrico Metals Plc & Anor (Rev 1) [2009] EWHC 2475 (QB)*.
- Gloser, E. 2010. *Judgmet: Guerrero & Ors v Monterrico Metals Plc & Anor [2010] EWHC 160 (QB)*.

- Hoetmer, R. 2013. Minería, movimientos sociales y las disputas del futuro: Claves de lectura y pisas de reflexión-acción. In: R. Hoetmer, M. Castro, D. Mar, J. de Echave, and C. Ruiz, eds. *Minería y movimientos sociales en el Perú: Instrumentos y propuestas para la defensa de la vida, el agua y los territorios*. Lima: Colección Diálogos y Movimientos, pp. 265–80.
- Instituto Nacional de Estadística e Informática (INEI). 2015. Ubicación del Perú en el ranking mundial de producción minera. 2010 - 2012 [online]. *Estadísticas. Principales indicadores macroeconómicos*. Available from: http://www.inei.gob.pe/media/MenuRecursivo/indices_tematicos/cap14019.xlsx [Accessed 8 Apr 2015].
- Kaleck, W. 2008. Der Kampf um transnationale Gerechtigkeit. Neue Chancen für die Menschenrechtsbewegung? *Kritische Justiz*, 41(3), 284–9.
- Kaleck, W. and M. Saage-Maaß. 2010. Corporate Accountability for Human Rights Violations Amounting to International Crimes The Status Quo and its Challenges. *Journal of International Criminal Justice*, 8(3), 699–724.
- Kamphuis, C. 2011. Foreign Investment and the Privatization of Coercion: A Case Study of the Forza Security Company in Peru.
- Keck, M.E. and K. Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press.
- Kirsch, S. 1996. Acting Globally: Eco-politics in Papua New Guinea. *Journal of the International Institute*, 3(3), 14–5.
- Kirsch, S. 1997. Is Ok Tedi a Precedent? Implications of the Settlement. In: G. Banks and C. Ballard, eds. *The Ok Tedi Settlement: Issues, Outcomes and Implications*. Canberra: National Centre for Development Studies and Resource Management in Asia-Pacific Project, pp. 118–1140.
- Kirsch, S. 2001. Lost Worlds: Environmental Disaster, 'Culture Loss,' and the Law. *Current Anthropology*, 42(2), 167–98.
- Kirsch, S. 2007. Indigenous Movements and the Risks of Counter globalization: Tracking the Campaign against Papua New Guinea's Ok Tedi Mine. *American Ethnologist*, 34(2), 303–21.
- Kirsch, S. 2014. *Mining Capitalism: The Relationship Between Corporations and Their Critics*. Oakland: University of California Press.
- Li, F. 2009. Documenting Accountability: Environmental Impact Assessment in a Peruvian Mining Project. *PoLAR: Political and Legal Anthropology Review*, 32(2), 218–36.
- Martinez-Alier, J. 2002. *The Environmentalism of the Poor: A Study of Ecological Conflicts and Valuation*. Cheltenham: Edward Elgar.
- Meeran, R. 2011. Tort Litigation Against Multinational Corporations for Violation of Human Rights: An Overview of the Position Outside the United States. *City University of Hong Kong Law Review*, 3(1), 1–41.
- Meeran, R. 2013. Access to Remedy: The United Kingdom Experience of MNC Tort Litigation for Human Rights Violations. In: S. Deva and D. Bilchitz, eds. *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* Cambridge: Cambridge University Press, pp. 378–402.
- Merry, S.E. 2003. Constructing a Global Law-Violence against Women and the Human Rights System. *Law & Social Inquiry*, 28(4), 941–77.
- Nelken, D. 1984. Law in Action or Living Law? Back to the Beginning in Sociology of Law. *Legal Studies*, 4(2), 157–74.
- Pound, R. 1910. Law in Books and Law in Action. *American Law Review*, 44, 12–36.
- Rajagopal, B. 2003a. *International Law from Below. Development, Social Movements and Third World Resistance*. Cambridge: University Press.
- Rajagopal, B. 2003b. International Law and Third World Resistance: A Theoretical Inquiry. In: A. Anghie, B. Chimni, K. Mickelson, and O.C. Okafor, eds. *The Third World and International Order: Law, Politics and Globalization*. Leiden: Brill, Nijhoff, pp. 145–72.
- Rodríguez-Garavito, C.A. 2005. Nike's Law: The Anti-Sweatshop Movement, Transnational Corporations, and the Struggle Over International Labor Rights in the Americas. In: B. de S. Santos and C.A.R. Garavito, eds. *Law and Globalization from Below: Towards a*

- Cosmopolitan Legality*. Cambridge: University Press, pp. 64–91.
- Saage-Maaß, M. 2014. Unternehmen zur Verantwortung ziehen: Erfahrungen aus transnationalen Menschenrechtsklagen.
- Santos, B. de S. 2002. *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*. London: Butterworths LexisNexis.
- Santos, B. de S. 2005. Beyond Neoliberal Governance: The World Social Forum as Subaltern Cosmopolitan Politics and Legality. In: B. de S. Santos and C.A. Rodríguez-Garavito, eds. *Law and Globalization from Below: Towards a Cosmopolitan Legality*. Cambridge: University Press, pp. 29–63.
- Santos, B. de S. and C.A. Rodríguez-Garavito. 2005. Law, Politics, and the Subaltern in Counter-Hegemonic Globalization. In: B. de S. Santos and C.A. Rodríguez-Garavito, eds. *Law and Globalization from Below: Towards a Cosmopolitan Legality*. Cambridge: University Press, pp. 1–26.
- Sarat, A. and S. Scheingold. 1998. Cause Lawyering and the Reproduction of Professional Authority: An Introduction. In: A. Sarat and S. Scheingold, eds. *Cause Lawyering: Political Commitments and Professional Responsibilities*. New York: Oxford University Press, pp. 3–28.
- Sawyer, S.M. 2005. *Crude Chronicles: Indigenous Politics, Multinational Oil, and Neoliberalism in Ecuador*. 3rd pr. Durham: Duke University Press.
- Scheffer, T. 2010. Comparability on Shifting Grounds: How Legal Ethnography Differs from Comparative Law. In: T. Scheffer and J. Niewöhner, eds. *Thick Comparison: Reviving the Ethnographic Aspiration*. Leiden ; Boston: Brill, pp. 17–42.
- Scott, J.C. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University Press.
- Shamir, R. 2004. Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility. *Law & Society Review*, 38(4), 635–64.
- Sikkink, K. 2002. Human Rights Advocacy Networks and the Social Construction of Legal Rules. In: Y. Dezalay and B. Garth, eds. *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy*. Ann Arbor: University of Michigan Press, pp. 37–64.
- Silva Santisteban, R. 2013. Porque son perros: Protestas, discursos autoritarios e industrias extractivas. El caso Conga. In: R. Hoetmer, M. Castro, D. Mar, J. de Echave, and C. Ruiz, eds. *Minería y movimientos sociales en el Perú: Instrumentos y propuestas para la defensa de la vida, el agua y los territorios*. Lima: Colección Diálogos y Movimientos, pp. 435–56.
- Simons, P. and A. Macklin. 2014. *The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage*. London: Routledge.
- Skinner, G., R. McCorquodale, and O. De Schutter. 2013. The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Business.
- Smith, J. 1997. Characteristics of the Modern Transnational Social Movement Sector. In: J. Smith, C. Chatfield, and R. Pagnucco, eds. *Transnational Social Movements and Global Politics: Solidarity Beyond the State*. Syracuse: University Press, pp. 42–58.
- Szablowski, D. 2002. Mining, Displacement and the World Bank: A Case Analysis of Compania Minera Antamina's Operations in Peru. *Journal of Business Ethics*, 39(3), 247–73.
- Vásquez, M. 2013. La criminalización de la protesta como estrategia de desarticulación del movimiento social en el Perú. In: R. Hoetmer, M. Castro, D. Mar, J. de Echave, and C. Ruiz, eds. *Minería y movimientos sociales en el Perú: Instrumentos y propuestas para la defensa de la vida, el agua y los territorios*. Lima: Colección Diálogos y Movimientos, pp. 415–34.