

The Politics of Indigenous Consent in Lithium Mining Frontiers: Negotiating the Fields of Possibility for Self-Determination

by

Miriam Shaftoe

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Abstract

This research project aims to explore Indigenous consent processes in emerging lithium frontiers in Quebec, Canada and Copiapó, Chile. Combining the Yellowhead Institute's spectrum of Indigenous consent and Gaventa's (2006) continuum of participatory spaces as a guiding framework, I conduct a multi-sited critical discourse analysis examining both dominant state-led frameworks governing Indigenous consultation and lithium development, and counter-discourses represented in statements published by Algonquin Anishinaabeg and Colla Indigenous communities contesting proposed lithium mining projects. My findings revealed that green extractivist discourses function in different ways to restrict the states' already limited spaces of Indigenous recognition and consultation. In the face of such limitations, these Indigenous communities are articulating conceptions of consent that simultaneously use and refuse state frameworks of recognition. This analysis demonstrates how contested spaces of participation along the spectrum of consent reflect the reality of "nested sovereignties" - where Indigenous communities assert and enforce their consent both within and against the state. This project contributes to the broader discussion exploring how Indigenous jurisdiction complicates and transforms the extractive frontiers of the energy transition.

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Chapter 1: Introduction

1.1 Background

The energy transition is driving a surge in demand for the minerals required to produce renewable energy technologies, and a vast amount of these minerals are found in Indigenous territories around the world. Amongst the energy transition minerals, lithium vividly illustrates the complexities of this intersection with Indigenous lands. As a key component of electric vehicle batteries and battery storage technologies, demand for lithium is projected to surge by up to 4200 percent by 2040 (International Energy Agency, 2021). The disproportionate impact of this lithium boom on Indigenous peoples is undeniable, as around 85% of global lithium reserves and resources are located on or near Indigenous territories (Owen et al., 2023, p.204).

As emerging and established lithium producing states look to increase mining output, they appear to be recognizing the reality of this intersection - to a degree. The Canadian Critical Mineral Strategy for instance, states that “the success of Canada’s critical mineral development is tied to the active participation of Indigenous peoples” (2022, p.7), and a similar sentiment is expressed in the Chilean National Lithium Strategy, which “requires opportunities for engagement and participation with all stakeholders [...] especially indigenous communities” (2023, p.22). Yet in practice, these claims of Indigenous participation and engagement are paired with efforts to designate energy transition minerals as “critical” and “strategic” to fast-track their extraction (Owen et al., 2022). As critical mineral “resource nationalisms” emerge to justify expanding mining activities, they are coming up against Indigenous assertions of sovereignty and jurisdiction over their territories (Johnson et al., 2024).

These struggles over extraction are increasingly playing out through Indigenous consent and consultation processes. Indigenous peoples are leveraging these spaces to intercede into the governance of extraction and challenge the unilateral assertion of state sovereignty over mineral resources (Scott, 2021). At a recent meeting of the UN Permanent Forum on Indigenous Issues in the spring of 2023, Indigenous delegates argued that the right to free, prior and informed consent (FPIC) “stands in the doorway of the just energy transition”, representing one of the only safeguards against an extractive energy transition that would disproportionately affect them (Sax, 2023). The question of what counts as Indigenous consent has thus become one of the most contested and conflictual issues in the governance of resource extraction, and the just energy transition.

In this context, examining how competing conceptions of consent are playing out at the extractive frontiers of the energy transition can reveal both how states’ visions for lithium extraction and development can constrain the field of possible action for Indigenous consent, and how Indigenous communities are negotiating and contesting these processes, in turn shaping the fields of possibility that determine if and how extraction will unfold.

1.2 Research Objectives & Questions

The objective of this research project is to uncover how national frameworks governing lithium extraction and Indigenous consultation shape the field of possibilities for Indigenous consent and self-determination in the energy transition. As such, this study explores an empirical and analytical question. The first is what counts as consent to energy transition mining projects from the perspectives of the state versus indigenous communities? The second is how do Indigenous communities contest dominant frameworks of consent and negotiate fields of possibility for self-determination?

Much of the struggle over spaces of Indigenous consent is focused on their boundaries, and it is through a dynamic spectrum of opening and closing spaces of consent that the limits defining the field of possibilities of Indigenous self-determination are negotiated and become visible. Following Hayward (1998), I understand the spectrum of consent to be embedded in colonial power relations, which function as a “network of boundaries that delimit the fields of possible action” for Indigenous self-determination (Hayward, 1998, p.2). These boundaries act to constrain the practice of Indigenous sovereignty, but they are also pushed and refused by Indigenous communities seeking to “shape the social limits that define what is possible” on their own terms (Hayward, 1998, p.21).

This study examines what Indigenous consent processes in emerging lithium frontiers can reveal about how Indigenous jurisdiction intercedes in the processes of construction of extractive frontiers in the energy transition. As a settler researcher and an outsider to these communities, my intention in this project is not to inappropriately adjudicate processes of Indigenous consent or judge the choices made by Indigenous communities regarding resource extractive projects. Rather, I hope to understand the constraints imposed by the state frameworks that govern Indigenous consultation and consent, and how Indigenous communities negotiate the fields of possibility for consent and self-determination within and against these limits.

To answer the above research questions, I undertake a multi-sited investigation (Riofrancos, 2021) examining state and Indigenous approaches to consent in two sites: the emerging lithium hub in Abitibi-Témiscamingue Quebec, and the Salar de Maricunga in Copiapó province, Chile. In choosing these two sites, I seek to examine how new lithium frontiers are constructed in an emerging lithium producing state (Canada) and an established lithium producing state (Chile), with different histories of colonialism and relationships to global structures of extractivism. My aim is to better understand how these macro-level processes, as expressed in the state frameworks governing Indigenous consultation and lithium development, shape the boundaries of Indigenous consent at the extractive frontiers of the energy system. Simultaneously, I hope to uncover how Indigenous communities intercede into these spaces to shape the possibilities for consent and self-determination, articulating and enforcing their own views of consent in response to proposed lithium projects in their territories. To do this, I conduct a critical discourse analysis on 4 texts representing the dominant frameworks in the two states, as well as 12 public statements by Indigenous Anishinabeg Algonquin and Colla communities articulating their own views of consent in response to proposed lithium projects in their territories.

My conceptual approach is based on the Yellowhead Institute's (2019) spectrum of Indigenous consent, from denial to recognition to reclamation of Indigenous jurisdiction. I combine this spectrum with Gaventa (2006) and Hayward's (1998) analyses of power in participatory spaces. In this way, I examine how the dynamics of denial, recognition and reclamation interact with those of exclusion, inclusion and refusal to shape the field of possibilities for Indigenous consent, and self-determination. I draw on critical Indigenous scholarship (A. Simpson, 2014; Coulthard, 2014; L. Simpson, 2017) to ground my understanding of the colonial nature of the power relations shaping these spaces of consent.

In this thesis, I argue that struggles over Indigenous consent play out through a spectrum of participatory spaces that shape the field of possibilities for Indigenous self-determination. The dominant state frameworks governing Indigenous consultation and lithium development function to set the boundaries that limit spaces of consent, thus restricting the field of possibilities for self-determination. Working both within and against these boundaries, Indigenous communities' consent claims reveal how they assert and enforce their consent and negotiate their self-determination in the face of the state's increased involvement in critical mineral development. In other words, consent is a strategic space of action where Indigenous communities navigate the realities of what Mohawk scholar Audra Simpson (2014) calls "nested sovereignties", by acting both within and against the state to exercise their own self-determination.

Following this introduction, Chapter 2 will review the literature on lithium extractivism and the politics of Indigenous consent. Chapter 3 will explain the multi-sited research design and critical discourse analysis methods used to undertake the document analysis for this investigation. Chapter 4 will outline my analytical framework combining the Yellowhead Institute's (2019) spectrum of Indigenous consent with Gaventa's (2006) continuum of power in participatory spaces. Chapter 5 will present my findings and analysis. Finally, Chapter 6 will present my conclusions, including contributions and limitations of this project and avenues for future research.

Chapter 2: Literature Review

There are substantial bodies of scholarly work which have examined the socio-ecological impacts of mining on rural and Indigenous communities, the policies governing mining and Indigenous consultation, and the conflictual local dynamics of resource extraction. As this project is concerned with Indigenous consent in the context of mining for the energy transition, I have focused my review of the literature along two broad lines. First, I explore the literature on extractivism, as it provides a robust and critical theoretical perspective through which to understand the global system of resource extraction. I review how this literature has engaged with emerging resource frontiers, and how the dynamics of resource extraction are changing in the energy transition. Second, I examine the literature on the politics of Indigenous consent, to better understand how scholars have explored the contestation and conflict surrounding Indigenous consent processes in the context of resource extraction. I review the how this literature examines the conflict between state and Indigenous sovereignty inherent in FPIC, and how this contestation plays out in participatory spaces of Indigenous consultation and consent.

2.1 Extractivism

An initial theoretical engagement of this thesis is with the literature on extractivism, which examines the power relations and political economy of resource extraction. The concept of “extractivism” broadly refers to the production, accumulation and appropriation of nature under capitalism, and its disruptive social, economic and ecological implications (Bruna, 2023, p.22). According to Dayna Scott, extractivism can be distinguished from resource extraction, as not simply an activity that entails taking resources from nature for human use, but rather a relation, or a logic tied to the current system of global capitalism which involves a non-reciprocal relationship of taking from nature (2021, p.2).

Critical development scholars in Latin America have explained the inherent inequalities in extractivist development models, where heavy social and ecological consequences are borne by the local communities while benefits are accumulated elsewhere (Acosta, 2017; Gudynas, 2018). In other words, this destructive dynamic is also a place-based one - extraction inevitably occurs in the specific locations where the desired resources are found, which creates “extractive zones” (Gómez-Barris, 2017). These extractive zones are usually regions of high biodiversity, often in Indigenous territories, where complex social ecologies and forms of life are converted into resources under capitalism (Gomez-Barris, 2017, p.17).

In this vein, much scholarship has emphasized the colonial character of extractivism. Theorists have highlighted how Indigenous place-based, relational epistemologies and ways of life are in direct conflict with the ecologically destructive approach of extractivism (Acosta, 2017; Gomez-Barris, 2017; L. Simpson, 2017). As such, Indigenous people are in the perilous position of disproportionately suffering from the impacts of extractivism, while their traditional philosophies and economic practices also present “alternative values, experiences and civilizational practices” to extractivism (Acosta, 2017, p.3). This conflict is especially clear at the frontiers of extraction.

2.1.2 Resource Frontiers

The mining industry has continuously sought to find new materials and substances to turn into commodities and open new extractive frontiers (Mezzadra and Neilson, 2017). Michelle Klinger defines resource frontiers as:

“the more or less vaguely specified zones over which multiple actors and institutions compete for control, both over the place and over the extraction of its strategically valued [minerals]... The frontier refers to the manners in which such places are described, imagined, and problematized” (2017, p.14).

This means a resource frontier is not simply a physical place, but rather a transition - it is something “happening in or to a space” to turn it from one thing into something else (Rasmussen & Lund, 2018, p.388). The literature on frontier-making thus examines how ideas about ‘resources’ - both what they *are*, and what they are *for* - are changed and remade in space.

The expansion of frontiers is intimately tied to colonialism and capitalism. Ideas of “civilization” and “terra nullius” constructed the early colonial frontiers in the Americas, erasing Indigenous presence on the land and justifying genocidal violence and dispossession (Dent, 2013). Resource frontiers continue to be a key driver of colonialism, as current processes of capitalist frontier expansion are still upheld by “largely absurd and unrealistic vision[s] of a people-less and non-economic world to colonize” (Rasmussen & Lund, 2018). Under capitalism, new ways of extracting resources are introduced (commodity deepening) and extractive frontiers are expanded into new territories (commodity widening), creating new forms of dispossession and destabilization in Indigenous communities (Johnson et al., 2023). By imposing colonial capitalist modes of relating to the land, resource frontier-making can fracture Indigenous land-based epistemologies and ontologies (Mansanilla-Quiñones et al, 2024), and work to maintain state access to Indigenous territories for extractive capital (Coulthard, 2014).

As the energy transition unfolds, green investment opportunities are “fueling capital accumulation in the name of the fight against climate change”, and new ‘green extractivist’ frontiers are being constructed (Bruna, 2023, p. 3). Critical minerals, and lithium in particular, “exemplif[y] the frontier of renewable energy” (Riofrancos, 2023, p.20).

2.1.1 Green Extractivism

There is a growing body of scholarship looking to expose the extractive side of the energy transition. Faced with the increasingly urgent global climate crisis, scholars have begun examining how extractivist logics are reproduced through climate change adaptation and mitigation efforts. The term “green extractivism” has emerged to name the hypocrisy of touting an environmentally destructive, colonial mode of extraction as a solution to the climate crisis (Dunlap & Jakobsen, 2020; Voskoboynik & Andreucci, 2022).

This scholarship has explored the particular ways that the extractive side of the energy transition is creating or worsening forms of dispossession, displacement, and sacrifice zones. For instance, Kramarz et al highlight how the demand for energy transition minerals is causing global displacement through dispossession, ecological degradation and commodity-dependent

development (Kramarz et al., 2021). These displacements are playing out unevenly, creating “neo-colonial spatial relations and uneven geographies of sacrifice” (Andreucci et al., 2023, p. 2; Zografos & Robbins, 2020). Yet these impacts are not inevitable, they are worsened by a particular approach to emissions reduction that seeks to maintain the status quo. Andreucci et al call this “decarbonization by dispossession”, arguing that it is the green capitalist approach to climate action, focused on ‘technological fixes’ that is causing the surge for energy transition minerals (Andreucci et al., 2023).

Here, Daniel Voskoboynik and Diego Andreucci provide a useful definition of green extractivism as:

“a new phase in the complex relationship between mining and the environment, whereby extraction and valorisation of mineral resources is rendered not only compatible with ‘sustainable development’, but necessary to it and the possibility of a ‘low carbon’ future” (2021, p.802).

This justification of mining as being essential to the climate transition is especially evident in the case of lithium, as batteries for electronics, electric vehicles and grid storage represent 80% of global demand (Canada, 2022). Lithium is in a “buzz phase” around the world, where there is an intense increase in pressure and private and public interest in prospecting, exploration and community engagement (Kingsbury, 2023; Kingsbury & Wilkinson, 2023).

Given this “buzz” status, much of the existing literature on lithium extractivism engages with the imaginaries surrounding lithium, and its discursive legitimization. Many of these studies have focused on the dominant state discourses, examining how governments and mining industry actors in lithium bearing and producing regions are positioning lithium as a strategic mineral for the energy transition. In the countries of the so-called “Lithium Triangle”, national narratives are increasingly framing lithium extraction as a development opportunity to break with past patterns of unequal growth (Barandiarán, 2019). In the Global North, concerns around national security and environmental sustainability are being emphasized to promote lithium onshoring, in what Thea Riofrancos calls the “sustainability-security nexus” (Riofrancos, 2023). These works demonstrate how justifications for lithium extraction, through different forms of renewable energy resource nationalisms, shift according to the position of states on the global stage and their relationship to global structures of extractivism.

Other studies have focused on the contestation of lithium extraction at the local level. In the Chilean context, much of the work on green extractivism has focused on the socio-ecological consequences of lithium extraction on Indigenous communities in the Salar de Atacama, an established extractive zone. These works have highlighted how the “colonial shadow” of green economic policies of Global North countries is worsening water injustice in Atacameño communities (Jerez et al, 2021). They have also explored the ways in which Indigenous agency “troubles” lithium extractivism - as Indigenous communities are both incorporated into its extractivist logics and resist them (Mejia-Muñoz & Babidge, 2023). In Canada, Donald Kingsbury and Amalie Wilkinson (2023) reveal how green extractivist justifications for mining are perceived to be outsider concerns by local stakeholders in the emerging lithium frontier in Abitibi-Temiscamingue, Quebec. Contestation at the local level is instead focused on competing conceptions of what it means to be an established mining region, where lithium is understood as

any other mineral. These works highlight how specific local dynamics interact with the broader structures of lithium extractivism to shape contestation in emerging lithium frontiers and existing extractive zones.

As such, this project seeks to contribute to the literature on lithium extractivism, by examining Indigenous consent in emerging lithium frontiers in Canada and Chile where extraction is contested, much of the mining activity is exploratory, and outcomes of proposed lithium projects may still be uncertain.

2.2 The Contested Politics of Indigenous Consent and Consultation

Another expansive body of literature that is relevant to this project is the politics of Indigenous consent and consultation, especially in the context of mining. Much of the literature on Indigenous consent and resource extraction focuses on the right to Free, Prior and Informed Consent (FPIC) as articulated in UNDRIP, and how this principle has become one of the key spaces of contestation in resource extraction conflicts.

As consultation and consent processes have become enshrined within international Indigenous rights frameworks such as the International Labour Organization Convention 169 (ILO 169) and the UN Declaration of Rights of Indigenous Peoples (UNDRIP), researchers have examined the debates around the meaning, scope and implementation of these international norms. There are ample comparative analyses on Indigenous consent processes in the context of resource extraction, which have clearly demonstrated the broad variation around the institutionalization, interpretation and operationalization of regimes of Indigenous consent (Szablowski, 2010; Doyle, 2015). Considerable analysis has examined the conflict around Indigenous self-determination at the core of contestation about FPIC. A related body of literature has explored how the struggles over Indigenous consent have played out in participatory spaces at the international, national and local level.

The literature highlights the paradoxical role that indeterminacy or ambiguity can play in the context of contested consent processes. While some scholars focus on the ways in which ambiguity and vagueness can lead to implementation challenges and the cooptation of standards by more powerful parties, others examine how this uncertainty can create a transformative space for Indigenous communities to shape how norms are translated in practice in a way that fits their own needs, interests and capacities.

2.2.1 Free, Prior and Informed Consent: Contesting Indigenous Jurisdiction

Much of the literature has highlighted the disagreements about what counts as free, prior and informed consent. The principle of FPIC, as laid out in UNDRIP, aims to ensure the recognition and respect for Indigenous authority prior to and throughout the decision-making process for any activity that might impact Indigenous peoples and their territories (Borrows et al, 2019). However, this right is still highly contested and rarely if ever implemented in practice (Szablowski, 2010; Schilling-Vacaflor, 2019). On the one hand, Indigenous peoples assert the right to FPIC is derived from their right to self-determination (Gustafsson & Shilling-Vacaflor, 2022; Borrows et al, 2019). In contrast, state actors often narrowly view FPIC as an obligation to

consult but not necessarily reach agreement, much less secure consent (Borrows et al, 2019). Meanwhile, extractive industries tend to view consent through the lens of risk, and interpret consultation and consent processes as a means of building social license to operate in order to mitigate economic risks associated with community resistance (Papillon & Rodon, 2020)

International relations scholars have focused on diverging understandings of state vs Indigenous sovereignty as the root of much of the controversy surrounding FPIC. These works have highlighted the simultaneous possibility for cooptation and transformation that stems from this conflict. In the process of domesticating and operationalizing FPIC, states often seek to position the more limited standard of prior consultation as consent. This is a misleading conflation given that consultation does not require sharing or transferring decision-making authority, while consent does (Szablowski, 2010). Borrows and Lightfoot, among a number of other Indigenous politics and legal scholars, caution that the selective endorsement and incorporation of international Indigenous rights standards into national legislation can risk solidifying restrictive state interpretations of FPIC and sidelining Indigenous perspectives (Borrows et al, 2020; Lightfoot, 2016). In a similar vein, Schilling-Vacaflor argues that “the emergence of a shared understanding of [FPIC] is very improbable” until the power asymmetries and the profound disagreements over Indigenous territorial self-determination are addressed (2019, p. 315).

On the other hand, Anishinaabe International Relations theorist Sheryl Lightfoot also takes a more positive stance. She proposes that because of the profound challenges it poses to both the structure and practice of global politics, Indigenous politics can serve as a “transformational norm vector”, calling for a radical, enhanced decolonization project on the global stage (2016). In this way, FPIC could push towards a form of Indigenous self-determination that would transform how state sovereignty works, rather than needing to reconcile one within the other. Indigenous legal scholar John Borrows has argued that to achieve this transformative intent, the rights enshrined in UNDRIP must be interpreted through Indigenous peoples’ own knowledge systems, models of governance and laws (Borrows et al, 2019).

2.2.2 Participatory spaces of consultation and consent

The literature on participatory spaces of consent further explores how this contestation over self-determination plays out in practice. Scholars have examined both how these spaces are co-opted by state and corporate interests, and how Indigenous communities exercise their agency within national, international and local spaces of consultation and consent (Schilling-Vacaflor & Gustaffson, 2022)

As rights-based participatory spaces are becoming a more and more common way for states to respond to demands of Indigenous self-determination, some scholars have examined the ways in which these spaces are de-politicized, by channeling potentially disruptive social forces and discourses into institutional spaces that reinforce the status quo (Montambeault & Papillon, 2023). Reisch (2023) examines the subtle structural limitations that can restrict the space for environmental defenders to contest resource extraction, arguing that cooptation of spaces of dialogue, lack of transparency about consultation processes, and narratives around dependence on extractive industries are particularly important ways in which these “arenas of contention” can be restricted. Gamu and Soendergaard (2024) analyze prior consultation in the global mining

industry through the lens of ‘governance capture’. They suggest that Indigenous consent and consultation regimes can be understood as contentious compromises, and “arenas of constant discursive, organizational, and institutional struggle” within the wider structures of global capitalism (p.890). The authors argue that market enabling mechanisms like impact benefit agreements are driving governance capture in the prior consultation regime.

In a similar vein, critical Indigenous studies scholars have approached the topic of Indigenous consent through the lens of the colonial politics of recognition, warning that rights and recognition-based models can result in forms of Indigenous participation in state institutions that actually undermine Indigenous jurisdiction, and reaffirm settler colonial logics (Coulthard, 2014). This move towards rights-based spaces of Indigenous recognition has coincided with what scholars call the “contractual turn” - a rise in private benefit sharing agreements between extractive industries and Indigenous communities. Some scholars have argued that the turn to Indigenous-industry agreements functions as a form of “consent by contract”, in which the state facilitates negotiations between extractive industries and Indigenous communities as an intentional governance strategy to shield itself from demands for a more radical change in its relationship with Indigenous peoples (Scott, 2020; Szablowski, 2010). Dayna Scott explores this dynamic in-depth in the critical mineral frontier in Northern Ontario known as the “Ring of Fire”, arguing that consent by contract is one aspect of the broader “passive-aggressive” approach of the state - where passive underfunding of Indigenous communities is combined with aggressive subsidizing of critical mineral infrastructure, limiting Indigenous communities’ abilities to enforce their consent (Scott, 2024).

On the other hand, scholars have also highlighted the ways in which Indigenous communities exercise their agency within these systems. Papillon and Rodon have argued that FPIC has transformative potential when it is “translated” in practice by Indigenous communities on their own terms. Through case studies in the Cree and Squamish Nations, the authors demonstrate that by asserting control over consent processes, Indigenous peoples can position FPIC as a matter of jurisdiction and an expression of self-determination (2020; see also Gunster & Neubauer, 2019 for a similar work examining Social License to Operate). Papillon & Montambeault’s (2022) comparative study of FPIC processes in Canada and Brazil, similarly, argues that Indigenous consent and consultation protocols should be understood as a means of re-appropriating the spaces of consent and consultation, exercising and expressing their self-determination and decision-making authority on their own terms.

Many scholars stress the importance of recognizing how Indigenous communities exercise their sovereignty and agency to “trouble” the logics of green extractivism and settler colonialism by acting both in and against spaces of recognition (A. Simpson, 2014). In the Salar de Atacama for instance, scholars have highlighted how Lickan Antay communities have simultaneously negotiated agreements with mining companies and launched local, national and global protests against ecological harms and human rights abuses (Mejia-Muñoz & Babidge, 2023; O’Faircheallaigh & Babidge, 2023; Lorca et al, 2022). Schilling-Vacaflor and Flemmer (2020) propose that Indigenous FPIC mobilizations are grounded in collaboration, confrontation and reappropriation. Indigenous peoples thus exercise their agency in FPIC processes by mobilizing for a strong legal interpretation of FPIC, mobilizing for meaningful and influential FPIC processes, mobilizing against prior consultation processes, and blockading prior consultation processes to discuss broader grievances.

King and Pasternak's concept of the spectrum of consent towards Indigenous jurisdiction provides a useful framework for understanding these various approaches, and how Indigenous consent is "ignored, coerced, negotiated or enforced" (2019: 8). The authors suggest consent approaches range from outright denial of jurisdiction and dispossession of Indigenous peoples to a limited recognition within the status quo of state sovereignty, to more transformative approaches grounded in the reclamation of community-based strategies of consent-based jurisdiction (King & Pasternak, 2019).

This thesis seeks to contribute to the growing body of literature examining how Indigenous communities negotiate consent within and against the boundaries of participatory spaces and shape the possibilities for self-determination for themselves.

Chapter 3: Theoretical Framework: the Spectrum of Consent and Participatory Spaces

My analytical approach is based on the Yellowhead Institute's ¹ spectrum of consent from denial to recognition to reclamation of Indigenous jurisdiction (King & Pasternak, 2019). To further untangle the shifting dynamics that shape the field of possibilities for Indigenous consent, I draw on Gaventa (2006) and Hayward's (1998) analyses of power relations in participatory spaces, looking to critical Indigenous scholarship to ground my understanding of the colonial nature of those power relations. Combining the spectrum of consent with participatory spaces brings into focus how dynamics of denial, recognition and reclamation of Indigenous jurisdiction interact with those of exclusion, inclusion and refusal to shape the field of possibilities for consent, and self-determination.

The practice of Indigenous consent inevitably contains a challenge to state sovereignty – it is a reminder of the unfinished project of colonialism and the endurance of Indigenous political orders. Mohawk theorist Audra Simpson calls this *nested sovereignty*: the “fundamentally interrupted and interruptive capacity” of Indigenous political life in colonial states, where Indigenous sovereignties continue both within and apart from colonial state governance (2014). The spectrum of consent captures this fundamental tension, conceptualizing consent not as simply a process or an outcome, but rather as the wide variety of spaces in which Indigenous jurisdiction is denied, recognized or reclaimed (King & Pasternak, 2019). The spaces of consent along this spectrum thus consist of the “opportunities, moments and channels” through which Indigenous peoples can act within and against the state to enforce their consent, and influence the policies, discourses and decisions which affect their lives and lands (Gaventa, 2006, p.26).

I propose that linking the spectrum of consent with Gaventa's continuum of participatory spaces can help illuminate how the field of possibilities for Indigenous consent and self-determination is negotiated. The Yellowhead Institute's spectrum focuses on the denial of Indigenous jurisdiction through strategies of dispossession, limited recognition of Indigenous jurisdiction while preserving the status quo, and the reclamation of Indigenous jurisdiction over Indigenous territories (2019, p.9-11). This spectrum interacts with a continuum of participation, from closed spaces where important decisions are made by the state without any attempt at broader inclusion, to invited spaces where Indigenous actors are invited to participate but did not design or shape the space, to created or claimed spaces where Indigenous actors control the space more autonomously (2006, p.26-27). These spaces of consent are opened towards the reclamation of Indigenous jurisdiction or closed towards denial, through struggles for “legitimacy and transformation, cooptation and resistance”(Gaventa, 2006, p.27).

¹ The Yellowhead Institute is an Indigenous-led research centre based at Toronto Metropolitan University.

I draw on critical Indigenous scholarship to help ground my understanding of these dynamics of opening and closing in an analysis of colonial power relations. Because of its rejection of the legitimacy of the nation-state and central focus on Indigenous self-determination, critical Indigenous scholarship disrupts some of the assumptions in the traditional political science perspectives of power. Indigenous resurgence theorists Leanne Betasamosake Simpson and Glen Coulthard suggest that Indigenous peoples efforts to recover, reclaim and enact their traditional practices on the land are in and of themselves a form of resistance and the source of their sovereignty (2016, p.254). This is because Indigenous ethical frameworks of governance and law, which the authors call *grounded normativities*, are embedded in these “place-based practices and knowledges” (2016, p.254). As such, while Indigenous peoples engage in various spaces of participation, including at different local, national and international ‘levels’ of power, they are fundamentally seeking to transform the national and international state-based order (Lightfoot, 2016). In this context, the politics of recognition represent efforts to co-opt Indigenous demands and legitimize the nation-state’s continued practices of unilateral sovereignty over the land (Coulthard, 2014). From this perspective, many Indigenous theorists have emphasized strategies of *refusal*, as a generative alternative to the politics of recognition (A. Simpson, 2014; L. Simpson, 2017). In other words, refusing to participate in the system can create spaces of resurgence of Indigenous ways of knowing, being and doing - outside of the boundaries imposed by the colonial state.

The table below represents the fields of possibility that emerge from the interaction between the spectrum of Indigenous consent and participatory spaces. The struggle over spaces of Indigenous consent in resource frontiers shapes the “network of boundaries” that delimit the fields of possibility for Indigenous self-determination (Hayward, 1998, p.21). These boundaries work to restrict the possibilities for Indigenous consent and constrain the practice of Indigenous sovereignty. Yet they are simultaneously pushed and refused by Indigenous communities who fight to determine the limits of what is possible for themselves (Hayward, 1998, p.21). The categories of this matrix are not mutually exclusive, rather, they influence each other. For instance, dynamics of denial and exclusion that exist within one participatory space could spur the creation of a space of refusal, which could open new possibilities in other spaces of recognition.

Below, I will expand on how I conceptualize the categories of denial, recognition and reclamation and their interaction with Gaventa’s continuum of participatory spaces.

Table 1. Mapping fields of possibility for Indigenous self-determination: participatory spaces and the spectrum of consent

Participatory spaces	Spectrum of consent		
	Denial	Recognition	Reclamation

	(of Indigenous jurisdiction)	(of limited Indigenous jurisdiction)	(of consent-based practices of jurisdiction)
Exclusion (Closed spaces of key decision-making)	<u>Denial through Exclusion</u> Indigenous jurisdiction is denied, and Indigenous people are excluded from a closed space of decision-making.	<u>Exclusion through boundary-setting</u> Indigenous jurisdiction is recognized in a limited way, but Indigenous peoples are still excluded from crucial spaces of decision-making.	<u>Reclamation against Exclusion</u> Indigenous communities assert and practice their own jurisdiction, despite exclusion from a closed space.
	Example: -Indigenous communities are neither included nor recognized at the earliest stages of the mining process: claims-making and exploration.	Example: -The scope of Indigenous consultation and participation are limited to very specific circumstances, such as the very last phase of the environmental assessment process (Chile), limiting Indigenous communities' ability to influence extractive projects.	Example: -Indigenous communities draw on their own inherent rights and governance systems as the source of their legitimacy in the face of state exclusion.
Inclusion (invited spaces of participation in decision-making)	<u>Denial despite Inclusion</u> Indigenous peoples are denied jurisdiction but	<u>Promoting Limited Forms of Inclusion</u> Indigenous jurisdiction is recognized in a limited way, and	<u>Expanding the Boundaries of Recognition</u> Indigenous people assert and practice their own

	included in an invited space.	Indigenous peoples are included in an invited space.	jurisdiction, in an invited space.
	<p>Example:</p> <p>-The state reserves the right to infringe on the duty to consult, effectively maintaining its monopoly on power.</p>	<p>Example:</p> <p>-The state strongly promotes one specific space, such as negotiated agreements with mining proponents, as the highest form of inclusion.</p>	<p>Example:</p> <p>-The process of developing UNDRIP: Indigenous activists leveraged a space of inclusion to assert their own rights through the international system.</p> <p>-Demanding or undertaking Indigenous-led environmental assessments as an integral part of the broader environmental assessment process.</p> <p>-Using existing rights in the courts to expand the interpretation of the duty to consult and enforce consent.</p>
<p>Refusal - Self-made spaces</p> <p>(Indigenous <u>reclaimed or created spaces</u> for decision-making)</p>	<p><u>Refusing Denial</u></p> <p>Indigenous people are denied jurisdiction and create their own space instead.</p>	<p><u>Refusing Recognition</u></p> <p>Indigenous people are recognized, and they refuse inclusion in favor of their own space.</p>	<p><u>Reclamation through refusal</u></p> <p>Indigenous people assert and practice their own jurisdiction in their own space.</p>
	<p>Example:</p> <p>-Indigenous communities assert</p>	<p>Example:</p> <p>-Indigenous communities reject</p>	<p>Example.</p> <p>-Indigenous communities use</p>

	<p>their consent in the face of a project approval they did not consent to.</p> <p>-Indigenous communities seek to enforce their consent – by erecting a blockade, staging a protest, or taking over a space such as a corporate shareholder meeting to intervene and influence the process.</p>	<p>a space of recognition such as a consultation or negotiated agreement process. Instead, they propose an alternative way forward, of their own making.</p> <p>-Indigenous communities refuse the closure of existing spaces of limited recognition, seeking instead to reinterpret and reclaim them on their own terms.</p>	<p>their own laws and governance systems to assert and enforce decisions about the management of their own lands and territories.</p> <p>-Indigenous communities create their own consent protocol, environmental assessment process, or permitting process.</p> <p>-Indigenous communities practice their traditional governance, ceremonies and economic activities – on their own terms.</p>
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3.1 Denial

Indigenous jurisdiction is denied, Indigenous consent is ignored. Indigenous people are excluded from key decision-making spaces.

The denial of Indigenous jurisdiction occurs through strategies of Indigenous dispossession and alienation from the land. These strategies can involve both slow processes of cultural assimilation and gradual industry encroachment into Indigenous territories, and faster forms of dispossession such as forced relocations and criminalization of land defense (King & Pasternak, 2019, p.16). King and Pasternak call these the “infrastructures of theft” which work to erase and erode Indigenous laws and land-based governance systems (2019, p.16). These infrastructures of theft are upheld through the “legal fictions”, such as the doctrine of discovery and its continued legacies, which justify the state’s unilateral assertion of sovereignty (2019, p.16).

Closed spaces of decision-making uphold infrastructures of theft, especially in the context of resource extraction, which is a key driver of Indigenous dispossession and land alienation. Colonial states play a crucial role in facilitating extractive industry access to Indigenous lands, constructing new frontiers of extraction pushing into Indigenous territories. Resource extraction policy, licensing and permitting is governed mostly in closed spaces which entirely exclude

Indigenous peoples (King & Pasternak, 2019). Extraction further drives displacements by degrading the lands and ecosystems on which Indigenous traditional economies are based and replacing them with new pathways of local development dependent on extraction (Kramarz et al, 2021). As such, denial can also be perpetuated through forms of limited inclusion that leave the state's monopoly on power untouched. For instance, through spaces of participation that treat Indigenous peoples as any other stakeholder rather than recognizing their special status and rights, or by limiting inclusion to economic benefit without the possibility of meaningfully influencing extractive activities. In these types of circumstances, Indigenous people may refuse the denial of their rights and create their own spaces of resistance.

The cumulative impacts of colonization and resource extraction function to deny Indigenous jurisdiction both through explicit systemic exclusions from closed spaces of decision-making, as well as by continually eroding their lands and governance systems. Thus, denial not only produces situations where consent is ignored but also restricts the field of possibilities for consent by creating the conditions that make it more difficult for Indigenous communities to participate in existing spaces of recognition, or to enforce their will on their own terms.

3.2 Recognition

There is a limited recognition of Indigenous jurisdiction. Indigenous peoples are invited to participate in state-led consultation processes but have limited influence over the design of the process and the outcome.

In the face of denial and dispossession, Indigenous peoples have always pushed back and resisted. In response, states have developed strategies to manage Indigenous demands for self-determination (King & Pasternak, 2019, p.36). Through recognition-based approaches, states set the boundaries of Indigenous participation and inclusion, creating invited spaces which Indigenous communities do not control and did not design (Gaventa, 2006, p.26). Recognition encompasses space within which the state's 'official' boundaries for Indigenous consent are erected and contested. These spaces of recognition are often created in response to Indigenous resistance and thus may seek to open closed spaces of participation to restore the legitimacy of the state (Gaventa, 2006, p.27). This can also risk co-opting more transformative approaches, masking denial in the language of inclusion (King & Pasternak, 2019, p.36). Yet, even limited forms of recognition and inclusion can provide Indigenous people negotiating power and leverage, and in some cases these spaces can be expanded, and even "reclaimed" or appropriated for their own purposes (King & Pasternak, 2019, p.36; Gaventa, 2006, p.27).

In the context of resource extraction, there are many spaces of Indigenous recognition. These include consultation, participation in the environmental regulatory process, negotiation of private contracts with companies, and other forms of benefit-sharing such as government revenue sharing schemes or ownership stakes (King & Pasternak, 2019). Importantly, at the international

level, Indigenous communities have been able to push for a more fulsome recognition of their rights - especially through UNDRIP. Yet in the process of domestication, this international instrument has been watered down by states, usually to avoid a full implementation of the right to free, prior and informed consent (Gustafsson & Schilling-Vacaflor, 2022).

Participation in spaces of recognition often brings financial benefit, and sometimes also a means of influencing projects, yet these spaces typically share the characteristic of specifically restricting the field of possibilities for Indigenous communities to *withhold* their consent to an extractive project. This is achieved through many strategies, such as limiting the circumstances in which consultation is required, only opening for participation at a certain phase in the approval process, not taking cumulative environmental impacts of extractive industries into account or taking advantage of coercive power dynamics.

3.3 Reclamation

Indigenous communities' jurisdiction is asserted and (in some cases) enforced, through "consent-based practices". In this context, Indigenous peoples create or control the process more autonomously and can exert decision-making power throughout its course.

Reclamation encompasses the Indigenous-led consent-based practices and strategies created autonomously by Indigenous peoples, and which flow from their own “alternative visions of relationships to land” (King & Pasternak, 2019, p.48). These practices are diverse and often flow from ongoing efforts to re-constitute Indigenous laws and governance. At the international level, the principle of FPIC outlined in UNDRIP is the outcome of Indigenous diplomacy and must be interpreted through the lens of Indigenous laws and governance (Lightfoot, 2016; Borrows et al, 2019). King and Pasternak suggest that Indigenous conceptions of consent typically build on FPIC, reflecting an understanding of consent as a **reciprocal** ongoing process or condition rooted in good relations, where **legitimate** and appropriate voices from the community are at the table. They also often seek to be **restorative** of Indigenous laws and governance, and respect Indigenous knowledge (**epistemic**) (2019, p.21). In this context, consent is a practice that opens the field of possible action, to build alternatives and futures for the land and the community on Indigenous peoples own terms.

Reclamation of Indigenous jurisdiction necessarily involves a rejection of state-based denial, but this can take many forms. It can involve exploiting recognition-based frameworks to enforce Indigenous visions of development and consent, and it can also include the refusal to participate in state-led spaces in favor of spaces outside of the structures of recognition (King & Pasternak, 2019). The relationship between these spaces means that they are often used in tandem, where autonomously created spaces of refusal are necessary to hold invited spaces of recognition open through their demands and mobilization (Gaventa, 2006, p.26; Coulthard, 2014). King & Pasternak include some examples of reclamation which can allow communities to strategically

negotiate with the state and enforce their will, such as Indigenous-led environmental assessment and monitoring, consent protocols and permitting, and re-occupying the land through protests, blockades and camps (2019, p.48).

In sum, my conceptual framework combines the Yellowhead Institute's spectrum of consent with Gaventa's continuum of participatory spaces. I suggest that dynamics of denial, recognition and reclamation of Indigenous jurisdiction interact with dynamics of exclusion, inclusion and refusal in participatory spaces. Together, these dynamics shape the possibilities for Indigenous consent.

Chapter 4: Methods

In this study, I conducted a document analysis, relying on Thea Riofrancos' (2021) re-conceptualization of "sites" rather than cases, and Critical Discourse Analysis (CDA) as a theoretical and methodological approach. As such, the locales of investigation in this study are understood as "sites of a macro-level process rather than cases to compare" (Riofrancos, 2023, p.26). This approach allows for an examination of the complex relationships between broad global processes of lithium extractivism driving the construction of new frontiers, their contestation at the local level through Indigenous consent processes, and the ways in which these global and local dynamics co-constitute each other (Riofrancos, 2021).

Pairing this multi-sited approach with Critical Discourse Analysis allowed me to proceed inductively in my document selection and analysis process. I collected and examined dominant texts governing lithium development and Indigenous consultation, as well counter-discourses representing alternative approaches to consent in public statements and media releases produced directly by Indigenous communities. Using a CDA approach allowed me to pay close attention to the context in which the texts were produced, moving between a "focus on structure and on action" (Mullet, 2018; Wodak & Meyer, 2001). In this way, I was able to uncover how the discourses and representations of Indigenous consultation in the dominant frameworks of consultation connected with broader structures of colonialism and extractivism. I was then also able to connect the key themes and patterns of contestation emerging from the texts produced by Indigenous communities to the specific forms of denial and recognition in the dominant texts.

4.1 Research Design: A Multi-Sited Investigation of Lithium Extractivism and Indigenous Consent

Using a multi-sited approach rather than a case study allowed for viewing the empirical observations gathered from the document analysis through a "bifocal lens" (Riofrancos, 2021). In other words, rather than explicitly comparing the two sites, I gathered data on the specific local Indigenous consent processes and situated these contestations in their historical and colonial contexts, in order to examine the relationships of these sites to the global and national processes of lithium extractivism (Riofrancos, 2021). This approach helped uncover how Indigenous communities' practices and assertions of consent intercede into the governance of resource extraction and challenge unilateral assertions of state sovereignty - but are also restricted and constrained by the state's discourses on consultation and the construction of extractive frontiers.

In choosing these two sites², I followed Riofrancos' criteria for site selection - the global process, in this case the construction of lithium frontiers, must be observable and politically salient in the

² There is also an emerging Lithium frontier in Nord-Du-Quebec, in Eeyou-Istchee Cree territory. However, the conceptual framework I draw from (Yellowhead Institute Land Back Red Paper) explicitly excludes modern treaties from their discussion: "It is also worth noting, once again, that modern treaty settlement areas (and in some cases non-settlement areas) are not included in this discussion. They exist in a zone between recognition and reclamation and offer a number of lessons, practices, and philosophies of consent-based jurisdiction for a future Red Paper." Given these lithium projects are situated in the territory covered by the James Bay Northern Quebec Agreement (JBNQA), I decided not to focus my analysis there.

local sites, and must be the subject of contestation by local actors (2021). As the site of the largest producing lithium mine in North America, where efforts are currently underway to build a “lithium hub”, the region of Abitibi-Temiscamingue in Quebec is among the most advanced of North America’s emerging lithium frontiers. The Salar de Maricunga in Chile’s Copiapó province is an emerging lithium frontier in the world’s second leading lithium producing country, and the site of the most advanced lithium mining projects outside of the Salar de Atacama, where all of Chile’s lithium is currently extracted (Fernández et al., 2022). In these sites, lithium is the subject of state policies such as the Canadian and Quebec Critical Mineral strategies, and the Chilean National Lithium strategy, as well as public protests and mobilizations of various kinds seeking to challenge or influence its development trajectory - many of which are centered on Indigenous consent and consultation (Fernandez et al., 2022).

In terms of contestation in these sites, Indigenous communities are leveraging discourses and practices of consent to influence the trajectory of lithium mining projects in their territories. The Abitibi-Temiscamingue lithium hub is on unceded Algonquin Anishinabeg territory. All three First Nations communities in the area, Long Point, Lac Simon and Abitibiwinini, have been involved in contesting Sayona Mining’s lithium projects. Lithium development in the Salar de Maricunga, which is a sacred site for the Colla people, has generated significant conflict in Colla communities - from court cases to negotiated agreements and protests.

Examining both the dominant framework of Indigenous consultation and lithium development in each of these sites, as well as the ways Indigenous communities are responding to and contesting lithium projects, can help uncover how the dynamics of cooptation and transformation are playing out in the discourse to restrict or expand the fields of possible action for Indigenous consent and self-determination in the energy transition.

4.2 Methodology: Critical Discourse Analysis

This project is grounded in Critical Discourse Analysis (CDA) as an approach, as it provides a flexible and robust theoretical and methodological framework to examine the underlying power structures present in language, make links between different levels and scales of analysis, and connect the micro-level of discursive analysis to macro-level social structures (Wodak & Meyer, 2001). This allows me to make links between locally contested Indigenous consent processes, national frameworks governing Indigenous consultation and lithium development, and broader structures of green extractivism and colonialism.

The CDA approach is concerned with linguistic manifestations of power, where discourse is understood as the use of “language as a social practice” (Mullet, 2018; Fairclough, 2001, p.122). Discourses are both constitutive and socially conditioned - in other words, they are shaped by their social context, and they can also function as an “instruments of power and control and of social construction of reality” (Wodak & Meyer, 2001, p. 9). CDA proposes that discourses are structured by dominance and therefore produce and sustain unequal power relations (Wodak &

Similarly, in Chile, the Salar de Atacama is a well-established zone of lithium extraction facing ongoing Indigenous resistance by Lickan Antay communities. Given the different dynamics of negotiating self-determination in resource frontiers versus in established extractive zones, I chose to focus on the Salar de Maricunga as a new emerging lithium frontier.

Meyer, 2001). By paying careful attention to the histories and context in which discourses and texts are produced, researchers can examine the meanings that discourses construct, the specific ideologies they uphold, and how they affect social processes (Wodak & Meyer, 2001, p.3). In this way, CDA allows researchers to analyze the “pressures from above and possibilities of resistance to unequal power relationships” (Wodak & Meyer, 2001, p.3).

As Fairclough (2003) explains, discourses “not only represent the world as it is (or as it is seen to be), but they are also projective, imaginaries, representing possible worlds which are different from the actual world, and tied into projects to change the world in particular directions” (p. 124). As such, with its focus on power in language and careful attention to context, CDA allowed me to uncover how discourses of consent were mobilized to restrict or expand the “possible worlds” of Indigenous sovereignty.

4.2.1 Data collection

My approach to data collection and analysis was guided by Mullet’s (2018) framework for Critical Discourse Analysis, which incorporates shared characteristics and processes of many founding CDA scholars such as Fairclough, Kress, Van Leeuwen, Van Dijk, and Wodak. The approach outlines 7 stages: (1) selecting the discourse, (2) locating and preparing the data sources, (3) exploring the background of the texts, (4) identifying overarching themes, (5) analyzing the external relations in the text (interdiscursivity), (6) analyzing the internal relations in the text, and (7) interpreting the data.

Following Wodak & Meyer (2001), these stages are not necessarily fixed. Data collection is “not a specific phase to be completed before analysis begins”, but rather as a process guided by the questions that arise throughout the course of the research, which sometimes prompt the gathering of new data or the re-examination of earlier data (Wodak & Meyer, 2001, p.23-24). In this vein, data collection in CDA is similar to grounded theory, where an initial round of collection leads to a first round of analysis, and on the basis of the concepts and categories that emerge from these results, more data is collected if needed. CDA studies generally aim to analyze a small corpus of documents regarded as being “typical” of the discourse under examination (Wodak & Meyer, 2001, p. 23-25). As such, while I collected and read a wide array of literature, reports, media, and documents produced by various actors in these sites, I conducted a full CDA analysis on only a small set of documents.

In terms of the language of the documents selected, I searched for and collected documents in their original language (English, French, Spanish). If translations were available, such as for the government documents, I used these and quoted the English version directly. If translations were not available, I translated them myself.

In my process of document selection, I began by seeking out and mapping the official state frameworks governing Indigenous consent in lithium frontiers. I sought out documents representing the typical discourses of the state regarding Indigenous consultation and lithium extraction. The dominant frameworks governing lithium development and Indigenous consultation processes in Quebec and Chile are listed in Table 2.

Table 2. Dominant frameworks governing lithium development and Indigenous consultation processes in Quebec and Chile

Quebec	Chile
Aboriginal Consultation Policy Specific to the Mining Sector (2019)	Decreto Supremo (DS) 40 (2013 - latest modification 2024): Environmental Assessment Consultation framework, which governs Indigenous consultation in mining project environmental assessments
Quebec Critical and Strategic Mineral Development Plan (2020)	The Chilean National Lithium Strategy (2023)
“Advancing Reconciliation” chapter of the Canadian Critical Mineral Strategy (2022)	Decreto Supremo (DS) 66: The General state-led Indigenous consultation framework (2014)

Due to time constraints, I conducted a full CDA analysis only on the Aboriginal Consultation Policy Specific to the Mining Sector (2019), the Quebec Critical and Strategic Mineral Development Plan (2020), Decreto Supremo (DS) 40, and the Chilean National Lithium Strategy (2023). These documents were chosen as they most specifically represent the frameworks governing the processes at hand. DS 66 and the Canadian National Lithium Strategy were also examined in order to contextualize the chosen documents, but were not extensively analyzed.

In terms of selecting texts representing the counter-discourses of Indigenous communities, I sought out documents produced by representative Indigenous authorities, organizations and community members at large, that explicitly included claims about what counts as consent, specifically in the face of the expansion of lithium mining activities. In order to find these, I sought out and searched websites and social media sites of the affected communities, as well as websites of allied organizations, such as MiningWatch Canada, the Observatorio Plurinacional de Salares Andinos (OPSAL), and the Environmental Justice Atlas.

I also conducted broader media and document searches on google as well as Factiva and NexisUni databases in order to map out the key events of contestation for the specific lithium projects in question. In this mapping process, I sought out both formal (legal documents from court cases and injunctions, submissions to environmental impact assessment processes) and informal (websites, media, social media, civil society campaigns) documents that explicitly include claims by affected Indigenous communities, in their own words about what counts as consent in contested lithium mining projects. This process yielded the following results:

- Websites, blogs, newsletters, media releases, videos, social media posts and petitions from Indigenous community councils and associations
- Reports, blogs, newsletters, media releases and petitions from allied NGOs such as MiningWatch Canada, OPSAL and Cultural Survival
- Legal documents related to specific lithium mining court challenges by Indigenous communities in Chile

- Documents from the environmental review consultation processes for lithium mines in Quebec

Ultimately the selected documents included public statements issued directly by Colla and Algonquin Anishinabeg communities contesting consent processes in emerging lithium frontiers in the Salar de Maricunga in Chile and Abitibi-Temiscamingue, Quebec.

Table 3. Selected Texts from Colla and Algonquin Anishinabeg communities contesting lithium mining projects

Quebec	Chile
Sayona Mining ‘lithium hub’ projects (North American Lithium mine, proposed Authier project and Tansim exploration project).	Lithium projects in the Salar de Maricunga (Proyecto Blanco - acquired by the state from Lithium Power International, and Cleantech Lithium exploration project in Laguna Verde).
4 media releases from Long Point First Nation	2 public statements from the Consejo Nacional del Pueblo Colla
3 media releases from Lac Simon & Abitibiwinni First Nations (between 2021-2023)	3 news articles citing interviews/public statements with a Colla representative from a community not represented by the council (2023-2024)

These documents were analyzed in relation to a wider set of documents collected for context, which included more public statements by these communities about other mining projects and conflicts with the state, reports about Indigenous rights issues, and media articles - all of which were either created directly by the community, in collaboration with allies, or involved a substantial interview with Indigenous spokespeople (See Appendix 1).

4.2.2 Data analysis

Following Mullet (2018), my data analysis process involved identifying overarching themes, analyzing the external and internal relations in the text, and finally interpreting the data. These steps did not all proceed in a linear fashion, and involved moving back and forth between texts, notes, background information, and theory.

I began my document analysis process by manually, inductively coding the texts to pull out key themes. I first analyzed the four texts representing the dominant discourse on Indigenous consent and lithium development, and distilled my notes into overarching themes. I then undertook a similar process for the counter-discourse texts, drawing out overarching themes. I looked at the ways in which these themes represented interactions between the dominant frameworks governing consent and those governing lithium development, and recorded notes about the ways in which the discourses and interactions converged and differed in the two sites.

I then examined the interactions between the counter-discourses and the dominant frameworks to better understand the ways in which Colla and Algonquin Anishinabeg communities were responding to and contesting these dominant discourses of consent. I situated these texts within the broader timeline of contestation of the specific lithium mining projects to better understand their influence and outcomes. At this point, I began to see patterns emerging around the idea of sovereignty and legitimate authority, as well as the role that discourses around lithium and critical minerals played in relation to this contestation. This led me to go back through the documents explicitly using the Yellowhead Institute's spectrum of consent as an analytical framework to better conceptualize the "external relations" of these texts, in other words the ideological positions and social relations that shape the texts.

The spectrum of consent represented a compelling way to frame and understand the dynamics of denial, recognition and reclamation of Indigenous jurisdiction that I saw emerging thematically. The Yellowhead Institute's Land Back Red Paper itself is a critical analysis of the social relations shaping Indigenous consent in Canada, which is explicitly intended as a tool of critical engagement (Yellowhead Institute, 2024). As a settler researcher conducting research about Indigenous consent without engaging directly with Indigenous communities, using the spectrum framework allows me to acknowledge my own positionality, and avoid adjudicating what counts as Indigenous consent to instead focus on the constraints of the system and the ways that communities publicly resist it. As I used this lens to categorize and revisit the inductive themes that emerged from the texts, I also paid special attention to the "internal relations" of the texts - the patterns, words and format of the text that represent power (Mullet, 2018). These included looking at time, modality, actors, argumentation, word order, word choice, and voice among other aspects (Mullet, 2018). Through this iterative process, I developed my conceptual framework discussed above, and the analysis of findings which are elaborated in the following chapter.

Chapter 5: Analysis

This chapter applies the analytical framework of the spectrum of consent and participatory spaces to two sites of emerging lithium frontiers: the Salar de Maricunga in Copiapó Province, Chile and Abitibi-Temiscamingue, Quebec, Canada. The chapter is structured according to the ‘official story’ of consent as represented in the dominant frameworks governing Indigenous consultation and lithium development, and the ‘unofficial story’ of consent, as explored in the documents produced by the Colla and Anishinaabeg Algonquin communities resisting lithium mining projects. The subsections are organized according to the nine fields of possibility for Indigenous self-determination in the analytical matrix represented in Table 1, as well as a tenth section examining how green extractivist narratives interact with the spectrum of consent.

These fields of possibility are organized according to where they fit under the ‘official story’ or unofficial story of consent in these two emerging lithium frontiers. Each subsection describes how the boundaries defining what counts as consent are established and contested, using supporting examples from the texts analyzed. Both sites are woven together throughout the analysis.

5.1 The Official Story: There is No “No” to Lithium Development

The dominant framework in Chile and Quebec consists of 4 main fields of possibility of denial and recognition which set boundaries restricting communities’ ability to *withhold* their consent: denial through exclusion, denial despite inclusion, recognition through exclusion and boundary-setting, and recognition through the promotion of limited spaces of inclusion.

5.1.1 Denial through Exclusion

Claims-staking and exploration

One of the main ways that the denial of Indigenous jurisdiction is enacted in the dominant regimes of Indigenous consultation is through the exclusion of Indigenous peoples from the earliest phases of the mining process. Both Chile and Quebec grant extractive industries access to Indigenous lands for claims-staking and exploration, without Indigenous communities’ consent or consultation. While their consultation frameworks state that Indigenous communities should be engaged “as early as possible”, this apparently does not extend to mining claims-staking and early exploration as the state considers their impacts on Indigenous communities to be minimal.

In Chile, mining exploration activities are covered by a less rigorous form of environmental assessment - the Declaracion de Impacto Ambiental (DIA), which does not require Indigenous

consultation (DS 40, 2014). In Quebec, mining exploration activities such as claims-making and initial phases of exploration require no Indigenous consultation. Instead, proponents must simply inform Indigenous communities within 60 days of obtaining a claim (Aboriginal Consultation Policy Specific to the Mining Sector, 2019). This exclusion of Indigenous peoples from the earliest phases of the mining process represents a denial of their jurisdiction.

5.1.2 Denial Despite Inclusion

Reserving the Right to Infringe

Denial is also perpetuated despite forms of inclusion, through the state's unilateral assertion of sovereignty and monopoly on power, which limits the possibilities for Indigenous self-determination by reserving the state's right to infringe. This is enacted through both discourses and design of participatory spaces that explicitly and implicitly position the state as the sole decision-maker and holder of authority.

In both Quebec and Chile, the state reserves the right to infringe - even in the contexts where they do recognize they have a duty to consult Indigenous peoples. In its consultation frameworks, Quebec explicitly states that Indigenous communities do not have a veto right and there is no duty to agree, pointing out that “the courts have recognized that **the Crown can infringe [Aboriginal] rights** insofar as it can **justify its action**.” (Interim Guide for Consulting Aboriginal Communities, 2008, p.5). In Chile, both laws governing Indigenous consultation state that while the process must have the objective of reaching an agreement or achieving consent, “the failure to achieve such purpose **does not imply the affectation of the right to consultation**” (Own translation, DS 40, DS 66).

In both cases, the state assesses the “credibility” of Indigenous rights claims, and decides what constitutes “significant adverse impacts” on Indigenous peoples (Aboriginal Consultation Policy Specific to the Mining Sector, 2019; DS 40 2014). This effectively means that Indigenous communities have no say over what counts as an impact on their lives and lands, and therefore do not get to determine the circumstances and contexts that require their input. In other words, the colonial state determines what is an allowable infringement of Indigenous jurisdiction. In Chile, even in the most extreme circumstances such as relocation, which the state recognizes as having a significant and adverse impact on Indigenous peoples, it reserves the right to infringe:

“When, **exceptionally**, the transfer and relocation of human groups belonging to indigenous peoples **is deemed necessary**...where their consent cannot be obtained **and there are grounds established in existing legislation**, such relocation and removal shall only take place at the end of appropriate procedures...” (Own translation, Decreto Supremo 40, p.34)

Even the language used to express this right to infringe completely obfuscates Indigenous peoples as decision-making authorities in their own right. *By whom* would this relocation be ‘deemed necessary’? And what kinds of procedures - other than consent - would Indigenous peoples deem ‘appropriate’ in this context?

Similarly, in Quebec’s consultation policy, the government is the subject, or agent, of all references to decisions and decision-making (2019, p.3, 11, 12, 19). Indigenous communities’ participation is framed by commanding language, emphasizing the government’s authority in the process. For instance, in its section about the roles of different stakeholders throughout the consultation process, the government states:

“Aboriginal communities are **expected to collaborate and participate** in the consultation processes **initiated by Québec**” (p.4)

Through this language, Quebec clearly positions itself as the leader of the consultation process, with the authority to command and demand Indigenous participation. This commanding tone is especially dramatic because it is immediately contrasted with the weaker, more voluntary language used to address mining project proponents, who are “invited” and “encouraged” to interact with Indigenous communities (2019, p.4).

5.1.3 Recognition: Exclusion through Boundary Setting

Strategies limiting the scope of the duty to consult

In both states, spaces of recognition are marked by boundary-setting that works to limit the scope of the duty to consult, and the circumstances that could warrant requiring consent. These boundaries defining when consent is required function to limit the possibilities for Indigenous self-determination in these spaces.

In Quebec, the duty to consult and *in some cases* accommodate stems from the recognition of Indigenous peoples’ “Aboriginal rights” in the Canadian constitution (Borrows et al, 2019). The scope of the duty to consult falls on a spectrum from simple disclosure of information to accommodation and mitigation measures. Following this approach, the Quebec Aboriginal Consultation Policy Specific to the Mining Sector (ACPSMS) heavily emphasizes that accommodation is only required “in some cases”, following the evolution of case law regarding the duty to consult. The scope of situations requiring the broadest interpretation of consultation - accommodation, is significantly restricted in discourse and in practice. The state (through the courts) decides what constitutes a serious impact, and Quebec’s policies emphasize that the circumstances requiring the broadest interpretations of the duty to consult are “exceptional” (ACPSMS, 2019, p.5).

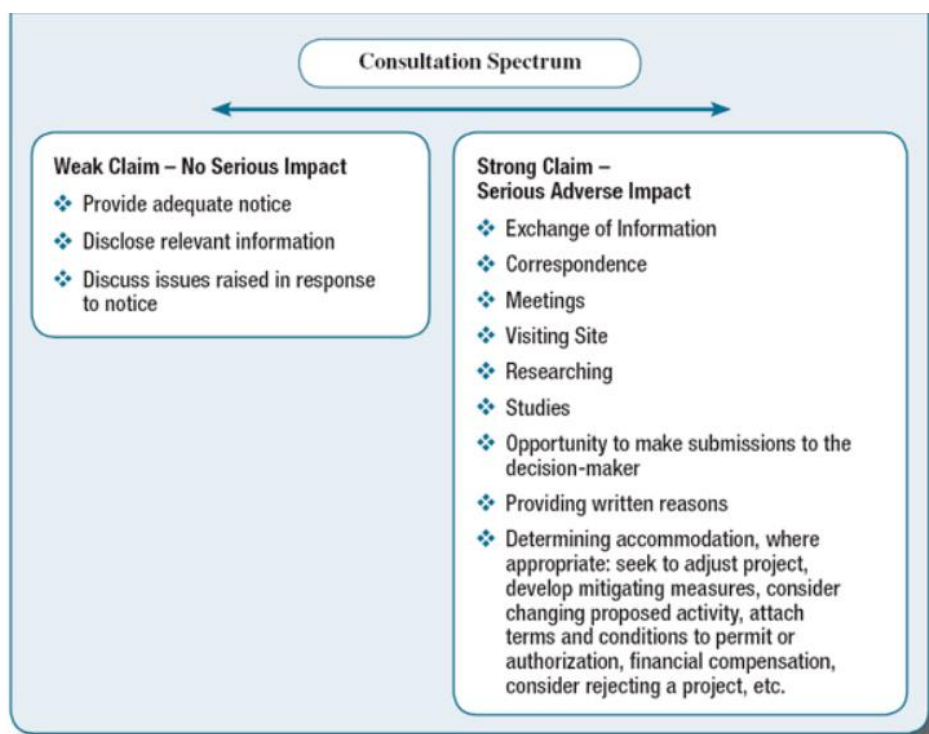


Fig. 1 'Consultation Spectrum' - Source: *Crown and Indigenous Relations and Northern Affairs Canada, 2024*

Quebec also restricts the space for consultation through its 'guiding principles' for consultation, which require that the implementation of these principles meet the government's administrative timelines. For instance, transparency requires making all documents available "as early as possible", and flexibility must be sought "within the bounds of government timelines" (2019, p. 3).

Similarly, in Chile the design of the consultation process for mining project approvals limits the ability for Indigenous communities to be able to influence the project outcomes. The duty to consult Indigenous peoples in DS 40 and DS 66 is meant to represent the domestication of the ILO 169 - but the process of domestication involved an intentional attempt to limit the scope of the consultation (Ugarte, 2021). DS 40, which governs consultation in the mining process, is even more limited than DS 66, which governs most state administrative processes. It allows consultation to happen at a much later phase than in DS66. While DS 66 requires consultation before a policy is implemented, DS40 begins the consultation process after mining projects have already entered the system. Consultation also only applies if the project is subject to the more rigorous form of environmental assessment, the EIA, and likely to generate "significant adverse impacts" on Indigenous peoples (DS 40, p.34)

Though the language of DS 40 lays out a strong requirement for Indigenous people to be able to influence the EIA process, this influence does not extend to the mining project itself, as the fulfillment of the right to consultation does not require reaching an agreement or obtaining Indigenous consent.

Decree 40, Article 85:

“The Service shall... design and develop **a good faith consultation process**, which contemplates **appropriate mechanisms** according to the sociocultural characteristics of each people and through **their representative institutions**, so that they can participate in **an informed manner** and have the **possibility of influencing** during the environmental assessment process” (Own translation)

While the Servicio de Evaluación Ambiental (SEA) is required to record all comments from the consultation process, they are not required to include them in the Resolución de Calificación Ambiental (RCA), which is the legally enforceable environmental license that lays out the conditions for project approval. (DS 40, p. 34) Because of this, there is an incentive for Indigenous peoples to try and reach an agreement for their concerns to be included in the RCA, but there is no incentive for the state to try and reach an agreement. Furthermore, the timelines of the consultation process restrict each phase to a 20–25-day period, limiting the ability for communities to deliberate (DS 40, DS66)

5.1.4 Recognition: Promoting Limited Spaces of Inclusion

Linking Participation and Economic Benefit

Recognition through inclusion explains how boundaries are implicitly set through the promotion and framing of specific forms of inclusion as the most desirable, or the highest possible form of recognition. One major difference between the frameworks analyzed in Quebec and Chile is the linking of participation and economic benefit in the discourse of state itself, where Quebec explicitly encourages and condones negotiated agreements. In Quebec, the language of “reconciling mining activities with other possible uses of the territory” can be seen throughout the mining consultation policy (ACPSMS, 2019, p.1). This discursive tactic limits the field of possibility for communities to say no, and is not reflective of the invasive and irreversible nature of mining activities, which may restrict “other activities” completely.

This is also evident in the document’s repeated objective of “satisfying all parties concerned” (2019, p.1). The accommodation measures are expected to find a way to eliminate or reduce the impacts on Aboriginal rights that satisfy *everyone*. In other words, accommodation measures emphasize an approach that allows the project to go forward. Yet if the duty to consult stems from the recognition and affirmation of Aboriginal rights, and Indigenous communities are the rights-holders/titleholders, why should *all* parties need to be “satisfied” with the outcome? In this way, the concern for ‘all’ stakeholders both obscures unequal power dynamics and the origins of the duty to consult itself, in Indigenous communities’ constitutional rights.

This idea of “reconciling” Indigenous rights with mining is best exemplified through the linking of the concepts of participation and economic benefit, where participation is framed as inclusion in the resource extraction economy:

“Aboriginal communities have clearly manifested their interest in **actively participating in mining development** and in benefitting from the **economic spinoffs** of mining activities” (p.1)

This framework is also applied to link the concept of fulfillment of Aboriginal rights to participation in the mining sector:

“They would like to ensure that mining projects are carried out in a manner that **respects their rights and interests. This is why** Québec pays special attention to the Aboriginal aspect of mining activities to **promote the participation of First Nations in mine development**” (p.1)

Negotiated Agreements and Mutual Benefit

This linking of participation and economic benefit connects with the Quebec mining policy’s strong emphasis on negotiated agreements as a means to “encourage Indigenous participation in mining project development” (2019, p.6). Impact benefit agreements are also referred to as “participation agreements” (2019, p.16).

The Quebec mining consultation policy heavily encourages Impact Benefit Agreements (IBAs) and frames Impact Benefit Agreements (IBA) between Indigenous communities and industry as a means to go “beyond” the duty to consult. This is clear in the following quotes:

“**Beyond the applicable guidelines**, proponents are encouraged to continue or even intensify their efforts with communities. Depending on the circumstances, **their actions could lead to an IBA or other agreement.**” (p.7)

“Although not required by law, **these agreements provide an excellent opportunity for the parties to establish positive relationships with each other.**” (p.16)

The unequal power dynamics between corporate actors and Indigenous communities are obscured through the language of mutual benefit: predictability for industry and economic benefit for communities. In this way, IBAs function as a form of risk-mitigation. All parties are framed as equal and the language of mutual benefit and cooperation is used throughout, to obscure the unequal power dynamics between companies and communities. This discourse is clear in the follow examples:

“The conclusion of various types of agreements makes it possible to **guarantee benefits to several Aboriginal communities** and to provide mining proponents with **greater predictability** in the development of their projects.”

"The effectiveness of this approach lies in the willingness of **all parties** to respect the spirit behind it and work together." (p.1)

Quebec also noticeably discursively aligns its interests and approach with the proponent. This discursive alignment is visible through statements like:

“The proponent’s approaches and those of Québec **are often complementary**, particularly with regard to taking into account the concerns of Aboriginal communities regarding the mining project.”

Ultimately, this policy positions IBAs as the real means to secure Indigenous communities’ approval. In the step-by-step guidelines for consultation, the encouragement for proponents to sign an MOU and start the IBA process comes **before** the mention of the consultation process and its requirements (p.6).

This framing of negotiated agreements as a higher bar of than consultation is especially noteworthy given that the concept of consent is completely absent from all of Quebec’s current Aboriginal consultation frameworks. Despite FPIC being increasingly discussed both at the federal level in Canada, and in other provinces such as British Columbia, it is conspicuously omitted from Quebec’s approach, which is squarely situated in the space of consultation and recognition.

5.1.5 Closing Spaces of Recognition: The Dynamics of Green Extractivism

Green extractivist discourse interacts with the existing spaces of denial and recognition to tighten the boundaries on spaces of consent, thus further limiting the possibilities for self-determination in lithium frontiers. While it manifests in different, specific ways in Quebec and Chile, what green extractivist discourse has in common between the Chilean National Lithium Strategy and the Quebec Plan for the Development of Critical Minerals is the combination of the concept of lithium as indispensable to the energy transition with ideas of national opportunity. In other words, different forms of resource nationalism are visible in these documents. These resource nationalist discourses perpetuate denial by obscuring the outsized impacts of lithium mining on Indigenous communities and excluding them from the decision-making table. In addition, the idea of indispensability interacts with the existing boundaries in the dominant frameworks of consultation to create a justification for infringement of Indigenous rights, further limiting the field of possibilities for Indigenous consent. In this way, dynamics of green extractivism function to tighten and restrict the existing boundaries of the dominant framework governing Indigenous consultation in lithium frontiers.

Lithium Development and Denial in Chile

In Chile, the lithium frontier is constructed by the state through neo-extractivist discourses of development, which position lithium as a way to break away from patterns of unequal benefit on the global stage. In this story, the outsized historical, ongoing and potential impacts of lithium mining on Indigenous peoples are obscured. The state's obligations regarding consultation of Indigenous peoples are totally elided, and Indigenous communities are excluded from key spaces of decision-making, representing a backtracking towards denial.

In the Chilean National Lithium Strategy, the green extractivist discourse of urgency and indispensability frames lithium mining as essential to the global effort to decarbonize stating: "The consensus among scientists and world leaders is that **global decarbonization goals will not be met unless a sustainable supply of lithium is secured** in the medium and long term" (Chilean National Lithium Strategy, 2023, p.7). This discourse is then used to position the energy transition as a "historic opportunity" for Chile, to consolidate its position as "a leading global lithium producer" (2023, p. 10-11).

Discourses of neo-extractivist development are mobilized in the text to link lithium production to national development opportunities and prosperity for local communities. The involvement of the state in lithium mining expansion, through public-private partnerships, is framed as a means to ensure the profit is used in the public interest, to "drive future development" (2023, p.5 and p.20). Simultaneously, lithium production is discursively linked to national development opportunities and local prosperity, mainly connected to possibility of "high-value-added supply chain opportunities" (2023, p.1). This combination of discourses can be summarized in the following quote:

"The urgent need to address the challenges posed by climate change and the energy transition has become a **strategic opportunity for Chile**, which has the potential to generate a major impact on the country's **future economic and social development.**" (2023, p.13)

Or to put even more succinctly:

"Chile has a historic opportunity. Chile has lithium. Chile has a better future for families." (National Lithium Strategy, 2023)

However, the positioning of Chile as a leader in the lithium industry, and one of the best places in the world for expanding lithium production and development, obscures both the already substantial impacts of lithium mining on Indigenous Lickan Antay communities in the

established lithium mining region of the Salar de Atacama, as well as the potential outsized impacts on Colla communities in the emerging lithium frontier in the Salar de Maricunga.

The resource nationalist and neo-extractivist discourses of development, economic benefit and public interest in the National Lithium Strategy obscure the omission of the specific obligations of the state towards Indigenous peoples. In comparison to the descriptions of the “strategic” public-private partnership process, the mentions of Indigenous peoples (of which there are only 7 in the 33-page document) are extremely vague. The ILO Convention 169 is mentioned among a list of international frameworks that will guide the strategy’s engagement process, but there is no mention of the word “consent”, nor even “consultation”. Instead, the strategy represents Indigenous peoples as any other stakeholder, relying on terms like participation and engagement. For instance:

“To ensure the sustainability of lithium mining in Chile, the State must establish and promote adoption of the most stringent social and environmental standards. This requires opportunities for **engagement and participation** with **all stakeholders** interested in submitting their **opinions for the discussion** of this strategy, **especially indigenous communities** related to salt flats.” (p.22)

In this way, the representation and discourses of Indigenous recognition in the National Lithium Strategy represents a regression, a backtracking towards exclusion and denial of Indigenous jurisdiction when compared to the official frameworks of Indigenous consultation in Chile. Here, “discussions and opinions” are the substitute for meaningful consultation. This omission also reflects a broad exclusion of Indigenous peoples from both the drafting of the lithium strategy, and the process of establishing public-private partnerships, which has forced Indigenous communities living near the Salar de Atacama and the Salar de Maricunga to resort to road blockades and protests and media campaigns to make their voices heard (OPSAL, 2024; Leon, 2024; Macdonaldo Caballero, 2024).

Lithium Onshoring in Quebec: Restricting Spaces of Recognition

In Quebec, lithium frontiers are constructed through green extractivist discourses of indispensability and green prosperity. The province represents itself as a global leader in sustainability and social acceptability in the mining sector, and emphasizes critical mineral development as essential for the province to achieve its climate targets.

This framing interacts with the discourses of mutual benefit and “consent by contract” to suggest that Indigenous communities can share in this “sustainable” wealth. However, this story obscures how denial of Indigenous jurisdiction can also function by driving dispossession through the degradation of the land, and dependence on resource extraction, creating conditions that make it more difficult for Indigenous communities to participate in spaces of recognition or engage in reclamation on their own terms.

In Quebec's Critical Mineral Development Plan (QPDCSM), the discourse of green extractivism frames critical minerals as “essential ingredients” for the global energy transition, and “indispensable to implement Quebec's major policies” around decarbonization. The urgency of the transition and necessity of critical minerals is framed as an opportunity for Quebec to become a global leader in CSMs, but also to improve its own energy sovereignty. These links are exemplified in the following quote:

“[The QPDCSM] presents concrete measures **to take advantage of minerals indispensable to the green energy and technological transition**, both nationally and internationally. This Plan offers us the possibility to extend Québec's outreach **all over the world**...and also offers solutions to make Québec **more self-sufficient**.”

The sustainability-security nexus (Riofrancos, 2023) is clear in the text, where Quebec is positioned as a global leader in “ethical”, “responsible” and “sustainable” mining, citing its “recognized practices in social acceptability” (QPDCSM, 2022, p.8). Simultaneously, critical minerals are framed as necessary for Quebec's “socioeconomic security” and that of its allies, as well as its ability to meet its own energy transition objectives and climate targets (2022, p.iv, and p.4). The plan also includes framings of green growth, where concepts of sustainability and the green economy are nearly always linked with prosperity and wealth creation through critical mineral development. For example:

“Québec contributes actively to the **global green energy and technological transitions** and to **wealth creation** in a **greener economy** by production, transformation and recycling of quality **CSMs**.”

The framings present in the QPDCSM are consistent with the discourses of Indigenous recognition in Quebec's official consultation frameworks. Quebec's framing as a global leader in responsible mining, hinges heavily on its supposed “social acceptability” practices. The QPDCSM explicitly cites the “Aboriginal Consultation Policy Specific to the Mining Sector”, and the government's general encouragement of IBAs, as examples of its leadership in responsible mining.

Considering FPIC is widely understood to be the global standard of ‘best practice’ when it comes to Indigenous consultation and consent, Quebec's framing of its “social acceptability” practices like the duty to consult and IBAs as examples of excellence, further functions to limit the space for *withholding* Indigenous consent. In fact, the term “social acceptability” itself even implies that the objective is to obtain the community's *acceptance* of the mining project.

The QPDCSM also applies the logic of “mutual benefit” to multi-use infrastructure and access corridors, where the government subsidizes infrastructure to accommodate extractive industries' access to critical mineral resources, and justifies this by framing this infrastructure as beneficial to remote Indigenous communities as well.

“The deployment of multi-user infrastructure, developed in collaboration with community stakeholders, **must make it possible to support the mining sector while benefiting the local and Indigenous communities** and the other economic sectors.”

“The deployment of infrastructure giving **access to the resources of a remote region** may generate substantial costs, often at the **expense of the proponent of the first project**. Once in place, these infrastructures can favour the development of other projects and **also benefit the local and Indigenous populations**.”

This idea of extractive access infrastructure as “mutually beneficial” obscures the reality of unequal power dynamics in Canada - many Indigenous communities are critically underfunded. Long Point First Nation for instance, declared a state of emergency due community safety issues stemming from a lack of funding from the province of Quebec as recently as November 2024 (Long Point First Nation, 2024). This is an example of denial through the creation of conditions that make it more difficult for Indigenous communities to effectively participate in spaces of recognition or engage in reclamation on their own terms. The state upholds these unequal dynamics through its “passive-aggressive” stance, passively neglecting of Indigenous communities while aggressively subsidizing critical mineral infrastructure (Scott, 2024).

5.2 The Unofficial Story: Negotiating the Field of Possibilities for Consent

The conceptions of consent articulated by Algonquin Anishinaabeg and Colla communities contesting proposed lithium mines in their territories reflect five fields of possibility: refusal in the face of denial, refusing the closing of spaces of recognition, reclamation against exclusion, reclamation expanding the boundaries of recognition, and reclamation of consent as flowing from ancestral, inherent rights.

5.2.1 Refusing Denial: Infrastructures of theft, closing of spaces of participation.

In the public statements and media releases analyzed in this investigation, Indigenous communities refuse the state’s narratives by situating contested lithium projects within their historical context as they articulate their consent claims. In this way, they take the long view of denial and dispossession, emphasizing the cumulative impacts of extractivism and colonialism on Indigenous people and territories, through long histories of extraction and community divisions rooted in colonial legacies. Notably, several of the statements analyzed also explicitly called out the specific exclusions and barriers associated with Chile and Quebec’s approaches to critical mineral development.

Cumulative impacts of mining on the people and the land

The public statements analyzed here from Abitibiwinini, Lac Simon and Long Point First Nations contest Sayona mining's various lithium projects in their territories by highlighting the long history of extractivism and its lasting impacts. Long Point First Nation highlights the impacts of a long history of mining in their traditional territories through their concerns about the need to protect the remaining spaces untouched by extraction:

“The mining complex proposed by the company, which would include the extraction of ore in a **highly significant area of our ancestral territory**, raises serious concerns within our community, **who occupies and cherishes this area that is still little affected by resource exploitation**. These impacts must be considered as early as possible...The promoter's entire project must be subject to a **single cumulative impact assessment**” - LPFN Chief and Council

The Abitibiwinini & Lac Simon councils in their joint statement intervening in Sayona's annual general meeting highlight the centuries long exploitation of Anishinabeg lands:

“**For more than a century**, the mineral wealth of the Anishinabeg **ancestral territories** has been explored and exploited by the mining industry **without consent and without compensation**.” - Abitibiwinini & Lac Simon FN Chiefs and Council

In a similar manner, the Consejo Nacional del Pueblo Colla and a leader from the community of Pai Ote highlight the years long impacts of multiple different kinds of extractivism on their territories, the disruptions to the traditional way of life of the Colla Nation, and the distrust in government as a result:

“We have lived for years **the terrible affectation of extractivism** by mining and grapevine (parronales) monocultures, causing **a direct aggravation to our nation and its people who move throughout the territory as a way of life** in search of pastures and water, and sometimes due to forced displacement in search of health and education.”
- Consejo Nacional del Pueblo Colla

“We have seen **places that have been fenced, sold and contaminated**, we do not understand how **a sacred vital element as precious as water is sold for the production of grapes for export and mining processes** leaving the Colla people without water, depleting the territory and our Pachamama in an alarming way.”
- Consejo Nacional del Pueblo Colla

“We do not believe the government, because governments pass, and **we have seen the disasters that CODELCO has committed. There is no trust**. They think they are lord and master of the territory, but it is our territory, and they cannot trample on us.”
-Representative of the Colla Community of Pai Ote

This positioning of current contestation of mining projects within longer histories extractivism highlights the cumulative impacts of denial and dispossession, contextualizing these moments of conflict within a much longer timeframe of injustice and further justifying these communities' demands and assertions of consent.

Linking community divisions to processes of dispossession

The statements from Colla communities heavily emphasized internal community divisions. However these texts linked the current state of divisions and conflict within and between Indigenous communities to the actions of the colonial state, acknowledging or tracing the roots of their conflicts to the impacts of the state's uneven application of recognition frameworks.

“This exclusion has caused **the division and breakdown of the internal structure of our Nation**, creating conflicts that could possibly be irreversible, **risking the destruction and consequently the disappearance of our People.**” - Consejo Nacional del Pueblo Colla

The Consejo Nacional del Pueblo Colla highlights the impacts of the state's erasure of communal, shared land use traditions. They argue that the erosion and exclusion of communal forms of land use over time has led to both the dispossession and displacement of many Indigenous peoples from their traditional territories, and has also led to internal division and the breakdown of governance structures.

“And the **State of Chile handed over land without an anthropological study, without asking us....**So we are not going to talk about a Nation, because to talk about a Nation you have to reach a consensus, you have to have a broad view, where it is a whole...not here; that is why I always talk about the concept of communities” - Colla Pai Ote Community Representative

While this representative of the Pai Ote Community takes a different view of the concept of the 'people' or the 'nation', they also trace the roots of the inter-community conflict discussed here to the Chilean state's actions in undertaking land restitutions after the passing of the “Indigenous Law” in the 1990s without consulting the Indigenous communities living in these areas.

Though the core documents analyzed from the Anishinabeg Algonquin communities in relation to Sayona's lithium mining hub did not directly refer to community divisions, it's worth mentioning that similar issues were raised by Long Point First Nation in relation to the state's

actions in another proposed mining project in the area³ - a polymetallic gold mine that has been promoted as another “critical and strategic mineral” project:

“Furthermore, I must raise the issue of **Quebec's divisive and colonial approach in its dealings with First Nations**.... It is deeply troubling and unacceptable that Quebec is now using this consultation agreement with a community that has **ceded its rights** [through historical treaty 9], as an excuse to **avoid its constitutional duty to consult with LPFN**, who has never surrendered its rights. This approach **undermines Indigenous unity and is a direct affront to the principles of fairness and justice.**”
- Chief of Long Point First Nation (2024)

Here, in the context of a public letter explicitly asserting that Long Point First Nation is withholding its consent to the Horne 5 mining project, the Chief of LPFN explicitly calls out the state’s divisive behaviour in “undermining Indigenous unity” and causing community conflict.

Lithium Development - Calling out Exclusion

Most of the statements included specific reference to the impacts of the state’s involvement in lithium mining, whether to call out exclusions and barriers, or to demand inclusion in the broader “value added” endeavor of lithium supply chain onshoring.

Colla communities’ contestation of lithium projects in the Salar de Maricunga and its surroundings call out the different ways in which the state’s lithium strategy perpetuates forms of denial and exclusion:

“That the sites where **the State of Chile wishes to exploit lithium** (Salar de Maricunga, Salar de Pedernales and Laguna Verde) **are of sacred character for the Colla People and their communities**...yet the instructions for carrying out Indigenous consultation for the exploration, exploitation and benefit of lithium in the Salar de Maricunga and its surroundings...**listed only some communities settled in points of the territory.**”
- Consejo Nacional del Pueblo Colla

The Consejo Nacional highlights the exclusion of some communities from the process of consultation for a site that is sacred to the entire people. A Pai Ote community representative in interviews with the media highlights the exclusion of communities from the drafting of the lithium strategy itself:

“What happened is that they came into the house **without asking permission**. They

³ The project in question is Falco Resource’s Horne 5 project: <https://www.falcores.com/en/horne-5-project/>

already have everything structured without talking to us...”

- Representative from Comunidad Colla Pai Ote.

5.2.2 Recognition: Pushing back against the closing of spaces of recognition.

Indigenous communities are pushing back, and refusing, the closing of spaces of recognition in the context of critical mineral development using a variety of strategies. In several of the documents analyzed, communities called out the state’s disregard and disrespect of its own existing spaces of consultation and recognition, drawing on inherent rights and international standards to push back against the closure of spaces of consultation and recognition, or to reject national frameworks for perpetuating forms of denial.

Calling out the state’s disrespect of its own spaces of recognition

In their joint statement, Abitibiwinini & Lac Simon FN call out Quebec and Sayona Mining for failing to meet the standards of recognition and inclusion set out in Canadian law, UNDRIP, and their discourses of shared economic benefit. They call out the company and the state using dominant discourses of social license, economic benefit and economic reconciliation:

“However, Sayona's senior management in Canada **is well aware that under Canadian law, the United Nations Declaration on the Rights of Indigenous Peoples and the principles of economic reconciliation**, a partnership with First Nations is essential for any mining project planned on their ancestral territories.”

“**No mining of refining project** is possible in Canada **without obtaining a social license** from Indigenous people.”

“**Sayona must equitably share with First Nations** the economic benefits of mineral resources including with respect to the refining of such resources.”

Even while pointing to the state’s frameworks of recognition, they also draw on inherent rights and international rights to highlight their authority as “true owners” of their ancestral territories:

“**Despite this, and despite the fact that the First Nations are the true owners of the resources present on their territories**, Lac Simon and Abitibiwinini are faced with a **lack of consideration** from Sayona and the Quebec government, who refuse to treat them as real partners.”

In a similar, but slightly different strategy, the Consejo Nacional Colla uses international frameworks of recognition to reject the domestic frameworks of consultation on the basis that they do not live up to ILO169 and UNDRIP, and do not respect Indigenous legal traditions and customs:

“Today we come as the National Council of the Colla People, to **denounce the repeated violations by the State of Chile to the rights of the Colla People**, transhumant inhabitants from the mountains to the sea in the region of Atacama and surrounding areas.”

They go on to cite UNDRIP Articles 8, and 11, as well as ILO 169 Article 8 to highlight the Colla peoples’ right to maintain their own customs and legal traditions, and their right against forced assimilation. They draw on these international frameworks and use them to denounce how the national consultation frameworks perpetuate forms of denial:

“...and **not to be governed by the current legislation** established in a capricious (*antojizada*) and distorted (*tergiversada*) manner, such as **the current DS 40** of Law 19.300, **which prevents the consultation of all the people**, as indicated in ILO Convention 169, ratified by Chile in 2008”.

Lithium Development: Upholding Rights and Recognition

In the face of closing spaces of recognition in lithium frontiers, Indigenous communities are also pushing back. In reference to the Quebec CSM development plan, Long Point First Nation Chief and Council highlights concerns about the role of the state in supporting critical minerals as a factor driving infringements of their ancestral rights, stating:

“Our concern about Sayona mining’s overall project in Abitibi-Temiscamingue has only grown in the face of the **government of Quebec’s support of critical and strategic minerals.**”

Even more explicitly, the LPFN council rejects the government’s discourse of environmental responsibility and social acceptability by calling out their CSM development plan as a factor contributing to the infringement of their rights, and a barrier to their participation in environmental assessment processes:

“The government **cannot claim to be acting in a responsible manner** if its plan to create lithium batteries **continues to infringe on First Nations ancestral rights** and **prevents us from participating in an assessment process** that respects our presence on our territory.”

Meanwhile, Abitibiwinini and Lac Simon First Nations demand that if Quebec is going to seek to onshore electric vehicle battery supply chains, then their inclusion in the economic benefits of lithium mining must extend to Sayona’s refining process as well:

“No mining **or refining project** is possible in Canada without obtaining a social license from Indigenous people...Sayona **must equitably share with First Nations the economic benefits** of mineral resources **including with respect to the refining of such**

resources...”

5.2.3 Reclamation against Exclusion

In their consent claims, Indigenous communities asserted their own jurisdiction in the face of exclusion and denial, by asserting themselves to be the legitimate, self-determining authorities in their territories, and drawing the source of their authority from their inherent and ancestral rights.

First and foremost, in all of the documents analyzed Indigenous communities represented consent, rather than consultation, as the required standard. In contrast to the dominant story, this necessarily includes the right to say no, as can be seen in the following statements:

“We will not give our consent to Sayona's North-American Lithium-Author project and **we will oppose all current and future activities by Sayona** on our territories.”

-Abitibiwinini & Lac Simon First Nations

“The findings of our own assessment must be critical in deciding whether or not to allow this project to proceed.” and **“Without consent, there will be no project.”**

- Long Point First Nation

“We believe that sites of sacred character must require the consent of the People, in addition to a free, prior and informed Consultation with the People”

- Consejo Nacional del Pueblo Colla.

The documents clearly also drew at times on international frameworks like UNDRIP and ILO 169 as a tool to highlight and support their assertions of inherent and ancestral rights. For instance, the Consejo Nacional del Pueblo Colla states **“that the State is not considering the customary rights of the Colla People to maintain their traditions linked to these places,”** elaborating that this is upheld in article 8 of the ILO Convention 169.

Abitibiwinini and Lac Simon First Nations also draw on UNDRIP to make their point that mining requires a partnership with First Nations communities. These documents also demonstrate conceptions of consent as *free, prior, and informed*, especially through the demands from the Community of Pai Ote and Long Point First Nation for involvement and control in the environmental assessment processes, to be truly informed about the potential impacts of the proposed projects on their territories. In this way, these communities draw on spaces of refusal, and international spaces of inclusion and reclamation to contest their exclusion from decisions about lithium development in their territories.

5.2.4 Reclamation: Expanding boundaries of recognition

Indigenous communities also refused the closure of existing spaces of recognition and defined them on their own terms, using international and inherent rights to support their assertions as to how their consent should be sought in these lithium projects.

Enforcing consent using the dominant framework

Long Point First Nations has used existing spaces of recognition to enforce their authority in the context of lithium mining projects in their territories. In their statement demanding that all of Sayona's lithium projects be subject to a cumulative impact assessment process, Long Point First Nation points out that they have already successfully altered or halted the course of one of Sayona's lithium projects on the basis of their recognized rights.

“The Council of LPFN obtained the suspension of mining exploration activities at the Tansim lithium site because of the imminent threat it poses to our Aboriginal rights.”

A representative of the Comunidad Colla Pai Ote also makes a similar statement. Referencing their communities' successful filing of recursos de protección (remedy of legal protection, or injunction) against lithium companies in the past, such as Simco Lithium's project in the Salar de Maricunga, they state that they'll do the same to the state-owned mining company:

“If CODELCO does not live up to what we are asking for, we can fight and go to the last consequences.” - Representative of the Comunidad Colla Pai Ote.

Using spaces of recognition to push towards consent

In their statements, Indigenous communities also discursively used existing spaces of recognition to push or expand beyond the limits of dominant frameworks. For instance, Abitibiwinni & Lac Simon First Nations appropriate the dominant discourse and existing spaces of recognition to demand consent; a demand which goes beyond Quebec's framework requiring only consultation. Abitibiwinni and Lac Simon express that “there will be no social license” from their First Nations, and as such they “will not give [their] consent to Sayona's North-American Lithium Authier project” and will “oppose all current and future activities by Sayona” in their territories. They then express their conditions for granting consent stating:

“No mining of refining project is possible in Canada without obtaining a social license from Indigenous people...Sayona must equitably share with First Nations the economic benefits of mineral resources including with respect to the refining of such resources...a partnership with First Nations is essential for any mining project planned on their ancestral territories.”

In a similar strategy, using a different space of recognition and inclusion, Long Point First Nation demands the expansion of the existing environmental assessment process into a cumulative assessment of the entire Sayona lithium hub. They propose that this must include their own Indigenous-led impact assessment, and request that the state provide them the necessary resources to undertake this assessment.

“The Council of Long Point First Nation... requests to conduct **its own assessment** of the impacts of Sayona’s mining projects...It is therefore logical, reasonable and necessary that a **single cumulative impact assessment** be conducted [of Sayona’s three lithium projects] and **that it include our own study** of the impacts on our territory and on our rights.” – Long Point First Nation

In Chile, statements from a representative of the Colla community of Pai Ote also includes demands to expand of the space of consultation in the environmental assessment process to include an independent investigation, controlled by their community:

“We want studies that are done by professionals we trust, **to have our own investigators.... We ask that the State pay** our own professionals for a counter-study. We don't want lies, **we need to know the truth**, that is, how we are going to be left when they take out the lithium.”

5.2.5 Reclaiming Consent

These documents also showed how Indigenous communities articulate their own definitions and conceptions of consent in their statements, which go beyond the frameworks of the state and even those in international rights frameworks. In this way, their statements reflect an understanding of consent as restorative, epistemic, reciprocal, and legitimate, and expand the field of possibilities towards reclamation of Indigenous self-determination (King & Pasternak, 2019). The Yellowhead Institute defines Indigenous consent’s **restorative** dimension as “promoting the active and intentional centering of Indigenous models of governance and law and moving away from Western frameworks and definitions”, **epistemic** as “accepting Indigenous knowledge frameworks and languages for understanding relationships to the land”, **reciprocal** as “an active and enduring condition” whereby Indigenous people “determine the terms of consent”, and **legitimate** as meaning that “representatives perceived as legitimate by the community” participate and are accommodated in the decision-making process (2019, p.21) .

Indigenous communities highlighted the restorative dimension of Indigenous consent in their statements by centering Indigenous governance and law, and emphasizing ancestral and inherent rights as the source of their jurisdiction. This is clear in the frequent mentions of “unceded territories”, “inherent rights” and “Anishinaabeg ancestral territories” by Lac Simon, Abitibiwinini and Long Point First Nations. This is captured clearly in the following quotes:

“We LPFN Anicinabek **have pre-existing Aboriginal rights** and title to our traditional unceded territory, predating European contact” and “We Anicinabek people govern ourselves in accordance with the **Seventh Generation Principle**, which dictates that the decisions we make today honor the seven generations that have come before us and result in a sustainable world for the next seven generations.”

- Long Point First Nation Chief and Council

“The Colla people are transhumant inhabitants from the mountains to the sea in the Atacama region and surroundings. Our people **intrinsically carry this cultural tradition, practiced since ancestral times**”

- Consejo Nacional Colla

“Our organization reflects collective leadership and is led **by all the Kurakas of the territory of the Colla People who want to be part of this organization**, where the main objective is to **safeguard and spread the cosmovision and culture of our People**, as well as to protect the rights of the Colla People and the Pachamama.”

- Consejo Nacional Colla

“The Colla Pai Ote Indigenous Community **has occupied this territory ancestrally, for millennia**”

- Representative of the Colla Pai Ote Community.

This restorative element is also represented in the outright rejection of colonial frameworks of governance and recognition by the Consejo Nacional Colla, stating “social and political struggles do not need a legal personhood to function, they need strength and conviction.” It is also clear in the Pai Ote community representative’s assertion that they do not need mining, they need the land.

“Before anything else, this community that speaks to you, Pai Ote, is a community **whose survival is in the territory**. It does not depend on the companies, because we are not looking to be rich, **we are looking for survival and for our ancestors to be well**, for Pachamama to be well and for our Father Wiracocha to continue protecting us; that is our world, **there is no price**.”

-Representative of the Colla Pai Ote Community

The documents from the Anishinabeg Algonquin communities also captured the epistemic dimensions of consent, focusing on Indigenous knowledge and obligations to the land and future generations:

“We LPFN Anicinabek **are vested with a sacred, inherent responsibility for the stewardship of the land, waters, animate and inanimate things within Anicinabek Aki**.” – Chief of Long Point First Nation

“Mining today must be carried out in partnership with Indigenous peoples while ensuring

the **protection and sustainability of the lands**, culture and traditions **for future generations.**” - Lac Simon & Abitibiwinni First Nations

The statements from Colla communities also reflect this epistemic dimension, focusing on the sacred nature of the Salar de Maricunga in particular:

“The sites where the State of Chile wishes to exploit lithium (Salar de Maricunga, Salar de Pedernales and Laguna Verde) **are sacred to the Colla People and their communities, bringing together the feelings, beliefs, prayers and prayers, ceremonies of the People.** These sites also form a transcendental part of the way of life of the people, their customs and raw materials for the sustenance of their traditions.”

- National Council of the Colla People

“**The Salar is sacred to us.** We go there with the horses, the mules, there we make the payments. **They are our beliefs, our ancestors, our spirit and our people;** they return to the Salar, because of the energies.”

- Representative of the Pai Ote Colla Community.

Preoccupations around the legitimate dimension of consent can be seen in the controversies surrounding community conflict and division in the statements from Colla communities. The core claim of the Colla National Council’s statements about consent in the Salar de Maricunga is about what counts as **legitimate** consent. The Colla National Council clearly seeks to establish its legitimacy through statements rejecting national recognition, stating “we also know that...some people, **in their colonized indoctrination**, believe that the only way to function is through state recognition.” They instead justify their legitimacy through inherent forms of sovereignty, as seen above, and draw on ILO Convention 169 to support this. Their perspective can be summarized by the following quote:

“**El Territorio es de todo un Pueblo** y no de algunas comunidades en particular.” (The Territory belongs to the whole People and not to some communities in particular).

- Colla National Council

These concerns around legitimacy are articulated in response to both the exclusion of some Colla communities from state frameworks of recognition and consultation, and to recent early consultation agreements negotiated between some Colla communities (including Pai Ote community) and the company Clean Tech Lithium.

Finally, the reciprocal dimension of Indigenous consent can be seen most clearly in the documents produced by Abitibiwinni and Lac Simon First Nations and the Colla Pai Ote Community, whose potential consent to lithium development is clearly expressed as an active and enduring condition, requiring respect and engagement in good faith on the part of outsiders.

This is evident in the language of partnership used by Abitibiwinni and Lac Simon:

“A **partnership with First Nations is essential** for any mining project planned on their ancestral territories”

“Mining development today must be carried out **in partnership with Indigenous peoples**, while **ensuring the protection and sustainability of lands, culture and traditions for future generations.**”

The same principle is evident in the language used by the Colla Pai Ote Representative in discussing why they engaged in agreement making with the company and their desired outcomes of consultation with the state:

“CleanTech Lithium has been **the only company to approach** us seeking an alliance for **prior and early consultation** and relationship with the territory, **on a basis of respect.**”

“There is no precedent in the history of our territories where the door has been opened for us **directly to participate in the design of a mining project** to ensure it aligns with the ancestral inhabitants of the territory.”

To summarize, the analysis of the counter discourse, expressed by Colla and Anishinaabeg Algonquin communities in these emerging lithium frontiers, reveals a combination of strategies and discourses that may sometimes seem contradictory. In these statements, communities negotiate their self-determination by engaging with the state and its participatory spaces, while simultaneously asserting their own legitimate authority over their territories.

5.3 Chapter Summary

In this chapter, I have outlined the main findings and analysis of this investigation, which can be summarized along three main lines: the restriction of possibilities for Indigenous consent in the dominant frameworks, the impact of green extractivism in further limiting the possibilities for consent, and the diverse strategies of engagement and refusal in Indigenous communities’ contestations about consent.

Firstly, I find that the dominant approach to Indigenous consultation in the context of lithium extraction in both Canada and Chile consists of spaces of denial and recognition. These spaces function to restrict the possibility for Indigenous communities to *withhold* their consent to unwanted mining projects. Denial is perpetuated through the state’s exclusion of Indigenous

peoples from key decision-making spaces, such as the earliest phases of mining exploration and critical mineral policymaking. Denial also pervades spaces of inclusion, as the state justifies and maintains its own right to infringe on recognized Indigenous rights under exceptional circumstances. Through spaces of recognition, the states seeks to limit the possibility for communities to withhold their consent, by setting boundaries on the scope of Indigenous consultation, and restricting Indigenous participation to forms of economic inclusion.

Secondly, I find that national critical mineral strategies and plans function to further restrict the scope of already limited spaces of Indigenous recognition and consultation. Green extractivist discourses, as represented in these two states' critical mineral and lithium strategies, work to limit existing spaces of Indigenous recognition, moving back along the spectrum of consent towards denial. While this green extractivist discourse manifests in different, specific ways in Quebec and Chile, what they have in common is the combination of the concept of lithium as indispensable to the energy transition with ideas of national opportunity. This resource nationalist discourse obscures the outsized impacts of lithium mining on Indigenous communities, and the idea of indispensability interacts with the existing boundaries in the dominant frameworks of consultation to create a justification for infringement of Indigenous rights.

Thirdly, my analysis reveals how Indigenous communities use multiple discursive and practical strategies spanning spaces of recognition and inclusion, reclamation and refusal in their engagements with the state. The conceptions of consent articulated by Algonquin Anishinaabeg and Colla communities contesting proposed lithium mines in their territories simultaneously refuse the denial of Indigenous jurisdiction, push back against the closing of spaces of recognition, and reclaim ancestral, inherent rights as the sources of their legitimate authority and jurisdiction over their own territories.

Drawing on Audra Simpson's (2014) concept of nested sovereignties helps illustrate the way in which Indigenous communities are constantly navigating their own jurisdiction and sovereignty within and against the state. While the diverse strategies they employ may sometimes appear contradictory and can at times cause division within and between communities of the same nation, there is a clear consistency in naming colonialism as the true root of community divisions, and self-determination is always implicitly or explicitly referenced as the underlying reason for choosing a particular way forward. In this manner, these communities are negotiating their self-determination within the field of possibilities available to them, refusing denial, leveraging spaces of inclusion to expand spaces of recognition, and creating spaces of reclamation. In their statements and consent claims, these communities define and push the boundaries of consent towards possibilities for a fulsome reclamation of Indigenous jurisdiction.

Chapter 6: Conclusions

This thesis has explored what counts as consent according to state and Indigenous actors in the context of mining for the energy transition in two emerging lithium frontiers in Abitibi-Témiscamingue, Quebec and the Salar de Maricunga in Chile. Drawing on a theoretical framework combining the Yellowhead Institute's (2019) spectrum of consent with Gaventa's (2006) analysis of participatory spaces, I have argued that the dominant frameworks governing Indigenous consultation and lithium development in Canada and Chile function to restrict the field of possibilities for Indigenous consent. Indigenous communities use diverse strategies both engaging and refusing the state's spaces of recognition and inclusion to shape the boundaries of action and negotiate fields of possibility that expand opportunities for their self-determination.

My analysis reveals three broad findings. First, the dominant framework of Indigenous consultation in the context of lithium frontiers functions to restrict possibilities for Indigenous communities to withhold their consent to unwanted mining projects, through spaces of denial and recognition. Second, national critical mineral strategies rely on a green extractivist discourse to combine ideas of lithium as indispensable to the energy transition with ideas of national opportunity. While this discourse manifests in different ways in Quebec and Chile, in both cases it obscures the outsized impacts of extractivism on Indigenous communities. Third, this analysis reveals how Indigenous communities use multiple discursive and practical strategies spanning spaces of recognition and inclusion, reclamation and refusal in their engagements with the state, to negotiate the fields of possibility of consent and self-determination. While Algonquin Anishinaabeg and Colla communities took different stances in relation to spaces of state recognition, they all pushed back on dynamics of closure and denial, asserting their inherent and international Indigenous rights.

This work illuminates how seemingly inhospitable spaces of participation can be reimagined as fields of possibility – where Indigenous communities negotiate within and against the boundaries of the state's frameworks of consent finding the opportunities and spaces to open and expand the possibilities for their self-determination. These Indigenous conceptions of consent illustrate the ways in which communities navigate the complex realities of their nested sovereignty within and against the state, to negotiate the fields of possibility for their self-determination (A. Simpson, 2014). Crucially, the results of this project point to both the complexity of Indigenous communities' engagements with spaces of recognition, and the importance of refusal as an ever-present alternative that represents a means to widen the possibilities for Indigenous consent and self-determination beyond the constraints imposed by the state.

This project contributes to the literature in two main ways. First, it adds to the rapidly growing body of work examining the extractive frontiers of the energy transition, by focusing on how green extractivist discourses interact with existing frameworks of consultation to further limit the fields of possibility for Indigenous consent and self-determination. Second, it adds to the

literature on Indigenous consent and consultation that explores the nuances, negotiations and ambivalences that characterize Indigenous communities' engagements with the participatory spaces of the state, by understanding these tensions through the lens of fields of possibility along a spectrum of consent.

Some important limitations of this study are the exclusion of documents representing corporate discourses regarding the specific contested lithium projects in the two sites. In addition, with more time, a more detailed analysis of a larger set of documents could examine the ways in which the discourses of contestation surrounding lithium projects in these sites have shifted over time. Further, the selected documents representing the perspectives of the Colla Pai Ote community were news articles including extensive interviews with a community leader rather than documents produced directly by an official community authority. While I took this into consideration in my CDA process, it represents a limitation as the consent claims articulated by this leader were mediated through the lens of a journalist.

Future scholarly work should more closely examine how non-state actors such as mining companies and civil society organizations fit into this landscape of participatory spaces and the spectrum of consent. How do their actions and authority interact with that of the state to shape the fields of possibility for Indigenous self-determination. In particular, different types of negotiated agreements and contracts with private companies present complex fields of possibility for consent that would require a wider scope of analysis. Second, future research should also disaggregate the state as an actor, as different departments and ministries at national and subnational levels shape participatory spaces that enable or disable possibilities for Indigenous self-determination.

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Appendix 1

Document collection: Background and Context

Document Name	Document Type	Year of publication	Source
Aboriginal Community Consultation policy specific to the mining sector	Policy document	2019	Ministère de l'Énergie et des Ressources naturelles
GUIDE INTÉIMAIRE EN MATIÈRE DE CONSULTATION DES COMMUNAUTÉS AUTOCHTONES	Consultation Guide	2008	Groupe interministériel de soutien sur la consultation des Autochtones
Quebec Mining Act	legal text - mining legislation	Originally passed in 1987	Ministère de l'Énergie et des Ressources naturelles
Projet de Loi 63: An Act to amend the Mining Act and other provisions	Bill introduced to Assembly Nationale - amendment to mining act	2024	Ministère de l'Énergie et des Ressources naturelles
Promoter Exploration Impacts Guide 2024	Working guide for promoters on new regulations for "impact causing exploration activities"	2024	Ministère des Ressources naturelles et des forêts
Accompagnement des Promoteurs	Online list of guides and policies for Industry about relations with Indigenous communities	2024	Ministère des Ressources naturelles et des forêts
Entente sur la consultation et l'accommodement de la	Consultation and accommodation agreement	2017	Conseil de la Première Nation d'Abitibiwinni et Ministère des Affaires Autochtones du Québec

Première nation d'Abitibiwinini	between QC gov and FN		
Part 2 of the Canadian Constitution Act 1982: Rights of the Aboriginal Peoples of Canada, Recognition of existing aboriginal and treaty rights	Legal text-constitution	1982	Government of Canada
The Government of Canada and the Duty to Consult	Federal government explainer on the duty to consult	2023	Crown and Indigenous Relations and Northern Affairs Canada
Quebec Plan for the Development of Critical and Strategic Minerals 2020-2025	Provincial Government resource development strategy	2020	Secteur des mines, Direction des communications du ministère de l'Énergie et des Ressources naturelles
QPDCSM: Action Plan 2023-2025	Provincial Government resource development strategy action plan	2023	Secteur des mines, Direction des communications du ministère de l'Énergie et des Ressources naturelles
Summary of Comments on QC critical mineral strategy	Provincial Government Report of public comments on the QPDCSM	2023	Secteur des mines, Direction des communications du ministère de l'Énergie et des Ressources naturelles
Canadian Critical Minerals Strategy	Federal Government resource development strategy	2021	Natural Resources Canada
Pas d'entente, Pas de Mine (not specific to Authier/Sayona/Lithium)	News Post	November 2017	Abitibiwinini First Nation Council
Video Manifestation Quebec Mines (not specific to Authier/Sayona/Lithium)	Video	January 10th 2018	Abitibiwinini First Nation Council
Sayona Mining part à la rencontre de la communauté de Pikogan	News Post	14 March 2018	Abitibiwinini First Nation Council (& CBC news)
Une « douche froide » à Pikogan pour les	News Post	1 March 2018	Abitibiwinini First Nation Council (CBC News)

promoteurs de la mine aux abords de l'esker			
Projet Authier : le chef de Pikogan défendra la décision de sa population	News Post	12 June 2018	Abitibiwinni First Nation Council (& CBC News)
Progres et Defis D'Abitibiwinni vis-a-vis l'industrie miniere	News Post	27 August 2019	Abitibiwinni FN Council
Sayona Mining Must Stop Taking LPFN Territory for Granted	News Release	October 9th 2021	Long Point First Nation Council
Stop the Sayona Lithium Mine on Lac Simard - Long Point First Nation	Online Petition	May 7th 2021	Kayla Mathias (LPFN member)
Sayona Mining Exploration in Témiscamingue: Long Point First Nation Asks Government to Immediately Suspend the Tansim Project	Press Release	May 13th 2021	Long Point First Nation Council
Lithium Mining on Ancestral Territory: The Assessment of Sayona's Mining Project Must Study its Cumulative Impacts and Allow Long Point First Nation to Conduct its own Study	Press Release	March 21st 2022	Long Point First Nation Council
Sayona Mining Must Equitably Share With Indigenous Peoples	Press Release	November 29th 2023	Abitibiwinni First Nation Council and Lac Simon First Nation Council
Lettre Ouverte - Mineraux Critiques: Pas de Lithium Sans les Premières Nations	Open Letter	November 22 2023	Abitibiwinni & Lac Simon Chiefs
NON Au Megaprojet de Lithium de Sayona Sans Partenariat Avec les Premières Nations	Poster	November 22 2023	Abitibiwinni & Lac Simon First Nations Councils
Petition on Lithium Mining Project on Unceded Territory: Stand with Long Point First Nation Against Sayona Mining	Petition	March 30th 2022	MiningWatch
Développement minier : L'APNQL joint sa voix	Press Release	November 24th 2023	Assembly of First Nations Quebec and Labrador

aux premières nations d'Abitibiwinini et de Lac Simon			
National Lithium Strategy	National Government Resource Development Strategy	2023	Government of Chile
National Mining Policy 2050	Policy	2022	Government of Chile
Codigo de Minería (Ley 18.248)	Chilean Mining Law	1983	Government of Chile
Comunidades y Organizaciones del Pueblo Colla denuncian que acuerdo con Clean Tech Lithium no fue consultado	Public Statement	December 15 2023	Consejo Nacional del Pueblo Colla
Pronunciamiento del Consejo Nacional del Pueblo Colla	Public statement	June 3rd 2024	Consejo Nacional del Pueblo Colla
No a la extracción de litio en el Salar de Maricunga	Opinion Column in El Desconcierto	January 28th 2023	Lesley Muñoz, representante de la comunidad Colla de la comuna de Copiapó
Pronunciamiento Trinacional Bolivia, Chile y Argentina	Pronunciamiento Oficial	March 21 2024	Autoridades Indígenas que viven en salares andinos (Chile, Bolivia, Argentina)
Observaciones sobre el Estado de los Derechos Indígenas en Chile	Report submitted to the UN Universal Periodic Review (Chile)	September 2023	Cultural Survival & Comunidad Indígena Colla de la Comuna de Copiapó
Canadian Lithium Investments in Chile: Extractivism & Conflict	Report	March 2022	MiningWatch, Opsal, Beyond Extraction
Vulneraciones de derechos Indígenas a la comunidad Colla Paiote de la región de Atacama	Exposición ante la H. Comisión de Derechos Humanos y Derechos Humanos de la Cámara de Diputados	n.d	Chañar y Foye (Consulting firm)
Impacts of Lithium Mining to the Santa Rosa Lagoon Lacustrine System, Salar de Maricunga	Report on Lithium water impacts	September 2024	Earth Works & Comunidad Colla de la Comuna de Copiapo

La Estrategia Nacional de Litio y los derechos humanos	Opinión column	April 28th 2023	Observatorio Ciudadano
El proyecto minero que quiere explotar litio del Salar de Maricunga al lado de la Laguna Santa Rosa	Blog Post	August 2018	Observatorio de Conflictos Mineros de America Latina
La riqueza en tierra ancestral indígena: cultura versus desarrollo en el salar de Maricunga	news article	Nov 21 2023	El mostrador
Comunidad colla propicia acuerdo “para permitir diversidad de actores en litio de Maricunga”	news article	Jan 16 2024	Diario Financiero
Ercilia Araya, autoridad colla que exige garantías para la explotación del litio	News article: Interview with Colla leader from Pai Ote	June 20 2023	País Circular
CleanTech Lithium signs agreement for sustainable lithium projects.	News article	December 20 2023	Global Mining Review
Tribunal Ambiental de Santiago condena a Minera Maricunga por daño ambiental en humedal altoandino de la Región de Atacama	Blog Post	n.d.	Tribunal Ambiental de Chile
Segundo Tribunal Ambiental realizó inspección al proyecto minero Blanco	Blog Post	n.d.	Tribunal Ambiental de Chile
Conversatorio Red por los Ríos Libres: Las Falsas Soluciones climaticas	video	June 10 2020	Red por ríos libres: Lesley Munoz y Elena Rivera (OPSAL & Comunidad Colla de la Comuna de Copiapo).