

ZEF and the Ghanaian-German Center for Development Research (GGCDs) are organizing a workshop on:

Civilizing Resource Investments and Extractive Industries: Societal Negotiations and the Role of Law



22.-23.09.2016, at the Center for Development Research, University of Bonn

The accelerating global scramble for natural resources, sparked by an increasing demand for industrial raw materials, water for domestic, agricultural, industrial purposes and hydropower generation, as well as arable land for the production of foods and bio fuels has continued to push the accumulation of land and other natural resources to ever new frontiers, especially the ‘global south’. Increasing investments in the global south were driven by the availability of resources and the increased profitability of investments in ‘risky’ environments during periods of raw material price hikes until the late 2000s. Furthermore, investments in the rather weak institutional and regulatory context of ‘developing’ countries seemed to be easier to implement and more profitable than under the highly regulated conditions in the ‘developed’ world.

The tendency to ignore the environmental and social externalities of large investments in resources in the ‘global south’ has long been criticized and opposed by activists. Local activism and international campaigns have raised public awareness in the global north and political advocacy as well, as consumer pressure have contributed to the generation of – albeit largely voluntary – international standards but also national laws meant to curb the most devastating consequences of resource investments and extraction. Resource accumulation and extraction has also given rise to a vivid academic debate about the macro- and micro-environmental, socio-economic, and political impact of investments as well as effective strategies to oppose, control and steer investments in order to prevent or mitigate negative impacts.

This workshop seeks to contribute to this ongoing debate in two ways:

On the one hand, it tries to understand, how investments and resource extraction are negotiated in societies in in the ‘global south’. The focus will be on the rather

confused and complicated linkages between global, national and local arenas. Large international investments are often promoted by international agencies as well as national governments in the home and host countries and allegedly operate within the framework of international guidelines and national legislation. Nevertheless, the way they are implemented and the way their impacts are contained is not straightforward, but depends on negotiation processes – often conflicts – in which different actors such as companies, governments, international agencies, international, national and local NGOs, CBOs, and a broad variety of local stakeholders engage with varying and changing strategies and in varying and changing networks and coalitions. Here the focus of our interest is rather on extra-legal negotiations and coalition-building strategies and their outcomes.

On the other hand, large parts of these negotiations are supposed to be framed by guidelines, laws, and regulations, to be enshrined in environmental - and social licensing processes, or are ultimately adjudicated in courts. These institutional frameworks, and the fundamental rights for citizens and the environment they instill, are the outcome of decades of opposition, awareness raising and advocacy. They carry a high symbolic value and they could provide the foundation for civilizing resource investment and extractive industries. We therefore want to discuss processes of legislation and regulation, but also the ways laws and rules are unmade or circumvented, and citizen and environmental rights become emptied in the legal and administrative field. The later, for instance, could be the result of transnational investment agreements, the failure to define the duties of enforcement, the weighing of competing rights, through procedural means, or because of the particular habitus of the legal social field.

Given recent transnational developments and the increasing connectivity between global, national, and local institutions and actors, the high profile of resource extraction in national development agendas in many countries, the pressure falling prices for food stuffs and raw materials exert on investors and governments, we find it necessary to continue to discuss and raise awareness for the current developments in the resource sector. We want to do so in an interdisciplinary manner – bringing together social and political scientists, engineers, and legal scholars – and in a transregional perspective looking for contributions from Africa, Latin America, Asia, and Europe.

The aim is to bring together senior resource persons and post-graduate students to spark a discussion between senior scientists with rich theoretical background and practical experience with upcoming scholars with rich empirical material. While the former will be asked to provide theoretical input and historical background to the debate, the post-graduate students can present and discuss their work in progress. If a critical mass of interested scholars can be reached, the workshop should lead to the publication of an edited volume.

Apart from academic discussion an excursion to the large open-pit lignite mine in Garzweiler is planned, to get further inside into societal negotiation processes regarding extractive industries in Germany.

Resource persons invited:

- **Prof. Dr. Kojo Amanor** (Anthropologist, University of Ghana, confirmed)
- **Prof. Dr. Friederike Diaby-Pentzlin** (Legal Scholar, University for Applied Sciences Wismar, confirmed)
- **Gustavo Gazzinelli** (Councilor, State Council of Water Resources, Minas Gerais, Brazil, tbc)
- **Prof. Dr. Antonio Madrid** (Legal Scholar, University of Barcelona, confirmed)
- **Dr. Bruno Milanez** (Industrial Engineer, Federal University of Juiz de Fora, Brazil, confirmed)

Biographical notes on invited resource persons:

Kojo Amanor is an Associate Professor at the Institute of African Studies, University of Ghana, Legon. He joined the Institute in 1993. From 1988 to 1990 he was Research Associate at the Overseas Development Institute (ODI). An anthropologist, Prof. Dr. Amanor has written extensively on land and land-use issues in West Africa and has critically reviewed the impact of neoliberal policies on resource distribution. His publications include:

- *Amanor, Kojo. Land, Labour and the Family in Southern Ghana: A Critique of Land Policy Under Neo-Liberalisation*. Research Report 116. Uppsala: Nordiska Afrikainstitutet. 127 pp. 2001.
- *Amanor, Kojo. Global Resource Grabs, Agribusiness Concentration and the Smallholder: Two West African Case Studies* *Journal of Peasant Studies* 39(3-4):731-749 · 2012
- *Amanor, Kojo. Expanding Agri-business: China and Brazil in Ghanaian Agriculture*. *IDS Bulletin* 44(4) · 2013

Friederike Diaby-Pentzlin is professor for economic law at the Technical University Wismar. She obtained her PhD in Law from Munich University in 1985. From 1993-2000 she worked as a senior expert in governance, democratization, rule of law, and human rights for the GIZ. From 2007-2011 she served as legal advisor on land reforms to the National House of Chiefs in Ghana. She has been working on land tenure, land reforms, and international investment laws. Her publications include:

- Diaby-Pentzlin, Friederike. CSR im Auslandsinvestitionsrecht - Platzhalter für fehlende globale rechtliche Steuerung und Überforderung bereitwilliger Unternehmen. in Walden, D. / Depping, A., CSR und Recht. Juristische Aspekte nachhaltiger Unternehmensführung erkennen und verstehen, Springer Gabler 2015, 278-307
- Diaby-Pentzlin, Friederike. Auslandsinvestitionsrecht und Entwicklungspolitik: Derzeitiges bloßes Investitionsschutzrecht vertieft Armut. Tückische Widersprüche, falsche Grundannahmen - Beispiele Investitionen in Land, Landmanagementreform in Ghana. *Wismarer Diskussionspapiere*, Heft 05/2015, www.wi.hs-wismar.de/documents/wismarer_diskussionspapiere/2015/2015_05_DiabyPentzlin.pdf

Gustavo Tostes Gazzinelli is a journalist who has a large experience in environmental policies and mining industry advancement in Minas Gerais and in Brazil. Gustavo has been active in most relevant mining-related conflicts of the last twenty years, as consultant to communities affected by mining initiatives, as member of the National Forum of Civil Society in River Basins Committees (FONASC), or yet as one of the founding members of MovSam (Movement for the waters and mountains of Minas), which was decisive to the creation of the Gandarela National Park, in Minas Gerais. Gustavo has extensive experience as councilor in several environmental agencies in state and municipal level, as in the State Council of Water Resources, (CERH-MG), legal and institutional technical chamber of CERH-MG; Work Groups on water regulations in CERH-MG, municipal environmental councils of Belo Horizonte (Coman) and Rio Acima (Codema). Finally, he has reviewed many studies and reports about environmental justice and health issues in Brazil, legal suits on the environmental permit of the Capão Xavier mining project, in Belo Horizonte, and carried out several researches about water uses and mining in the metropolitan region of Belo Horizonte, Minas Gerais, Brazil.

Antonio Madrid Perez is professor for legal philosophy in the University of Barcelona and coordinator of the human rights project *dret al Dret*. During last years he has been researching transnational companies' duties and corporate social responsibility, access to rights – how to guarantee marginalized individuals' and marginalized group's rights – and the transition of welfare states to neoliberal models. These lines of research are articulated with another research about the relationship between suffering and Law, suffering and the political. Some recent publications are:

- MADRID PÉREZ, Antonio, "Poderes irresponsables: La reconfiguración contemporánea del concepto político-jurídico de responsabilidad", Trotta, Madrid, 2015 <http://www.trotta.es/libros/la-democracia-en-bancarrota/9788498796018/>
- MADRID PÉREZ, Antonio, "Nothing about us without us! El movimiento de vida independiente: comprensión, acción y transformación democrática", Oxímora. Revista internacional de ética y política, 2, pp. 22-38, 2013. <http://revistes.ub.edu/index.php/oximora/article/view/6292>
- MADRID PÉREZ, Antonio, "Los deberes de las corporaciones transnacionales", en Estévez Araujo, J.A, (ed.), *El libro de los deberes. Las debilidades e insuficiencias de la estrategia de los derechos*, Trotta, Madrid, 2013, pp. 195-222. <http://www.trotta.es/libros/el-libro-de-los-deberes/9788498793987/>

Bruno Milanez is Lecturer at the Department of Industrial and Mechanical Engineering, Juiz de Fora Federal University, Minas Gerais, Brazil and leader of the Politics, Economy, Mining, Environment and Society Research Group. After finishing his Ph.D. in Environmental Policy (2006), at the Lincoln University, New Zealand, he has worked as a consultant for local communities struggling with mining impacts and has several publications related to extractive industries and conflicts, such as:

- Santos, R. S. P.; Milanez, B. (2015). The Global Production Network for iron ore: materiality, corporate strategies, and social contestation in Brazil. *The Extractive Industries and Society*, v. 2, p. 756-765.
- Milanez, Bruno; Santos, R. S. P. (2015) Topsy-Turvy Neo-Developmentalism: an analysis of the current Brazilian model of development. *Revista de Estudios Sociales*, v. 53, p. 12-28.
- Milanez, B.; Santos, R. S. P. (2014) Minería en Brasil: problemas, perspectivas y desafíos. In: Marco Antonio Gandarillas. (Org.). *Extractivismo: nuevos contextos de dominación y resistencias*. Cochabamba: CEDIB, v. 1, p. 133-154.