

Book Review

Symposium

The Pathology of Plenty: Natural Resources in International Law

Unveiling Hidden Challenges of Resource Wealth

14.04.2026

This piece engages with Lys Kulamadayil's analysis of the so-called "pathology of plenty" by focusing on two aspects that emerge as particularly significant in the governance of natural resources. On the one hand, it examines the role of extractive contracts and the challenges raised by their opacity and limited accessibility. On the other, it looks at the consequences of resource extraction for local communities and indigenous peoples, and the extent to which their rights are recognised and protected. By bringing these two dimensions together, the piece aims to show how questions of transparency and participation are closely intertwined in the management of resource wealth, and why addressing them remains essential to move beyond the somber impacts and noxious dynamics described in the book.

A Lyrical Account of Resource Governance

The book traces the origins of the theories surrounding the "*resource curse*" and the "*pathology of plenty*". It does so through an original narrative structure, describing the different phases that lead to this pathology. The book starts from the foundation and hope, then moves through temptation and peril, and eventually arrives at pain. This almost lyrical way of presenting the argument helps the reader navigate a topic that is both complex and significant.

Alongside states and natural resources, another pivotal character of the book is international law. It is often described as a system capable of responding to social and environmental needs, and in many respects this is true: over the last decades, international law has contributed to the recognition of important rights and principles (*i.e.* the growing recognition of the right to a healthy environment, the protection of communal property, and the increasing attention devoted to questions of corporate liability).

At the same time, however, the book shows that these developments have not been sufficient to unravel the deeper structures that sustain the pathology of plenty. When colonial systems of resource extraction came to an end, the legal frameworks governing natural resources were largely preserved. In this sense, as the author puts it, international law succeeded in decolonising states, but not people.

A similar dynamic can be observed in the field of foreign investment. As the book notes, the regime of foreign investment law is a clear example of the way in which distributional choices can become stabilised through legal instruments. In several cases, arbitral decisions rendered under bilateral or multilateral investment treaties have ended up reinforcing patterns that contribute to the very problems associated with resource wealth.

Where Resource Wealth Is Decided

Against this background, investment and extraction contracts occupy a particularly important place in the governance of natural resources. These agreements are not merely technical instruments regulating extraction. In practice, they often function as the legal framework through which the economic and political terms of resource exploitation are defined. Contracts between states and foreign investors determine, for example, fiscal arrangements, allocate risks and establish dispute settlement mechanisms. Because these agreements frequently last for several decades, they can have long-term consequences for how resource revenues are distributed. From the perspective of investment law scholarship, extractive contracts therefore represent an important site where the balance between sovereign authority and investor protection is negotiated in concrete terms.

One of the aspects that receives particular attention in the book is the (lack of) transparency, that has traditionally characterised these agreements. For a long time, many extractive contracts remained confidential. Even where disclosure has increased in recent years, their technical complexity still makes meaningful public scrutiny difficult. As Paul Stevens, Glada Lahn and Jaakko Kooroshy observe in their work on resource governance, contractual provisions on taxation, stabilisation clauses or arbitration are often embedded in highly specialised legal and financial structures. This can create significant information asymmetries between governments, companies and the communities affected by extraction. In practice, such opacity makes it difficult to assess whether resource agreements actually benefit the wider population. Effective access to information, however, involves more than simply making contracts available. The way in which information is disclosed often limits its practical use, as documents are fragmented, difficult to navigate and not easily comparable across projects or over time. As a result, even where information is formally public, it does not necessarily enable meaningful scrutiny. This gap is further reinforced by the uneven distribution of expertise and resources required to interpret such material, which tends to place governments and companies in a stronger position than local communities. In this sense, the challenge is not only one of access, but of making information usable in practice.

This point connects directly to the broader argument developed by Lys Kulamadayil. By examining the historical and legal evolution of resource governance, the book suggests that the pathology of plenty cannot be explained solely by weak domestic institutions. Rather, it is also sustained by the way in which resource extraction has been legally structured over time. In particular, the contractual frameworks governing the extraction of natural resources play a central role in this process, as they define in advance how revenues, risks and responsibilities are distributed between states and investors. Extractive contracts therefore provide a clear example of how these dynamics become embedded in legal practice. They frequently lock in certain economic arrangements long before the social consequences of resource extraction become visible. This is also due to the long duration of such agreements, which often extend over several decades. As a result, their effects tend to unfold gradually and may only become apparent under subsequent administrations that were not involved in the original negotiations. In a similar way, the consequences of these arrangements are often borne by local communities and future generations, who have little or no control over decisions taken in the past. Such consequences may include long-term environmental degradation, such as water and soil contamination, with direct impacts on human health, as documented, for instance, in the Niger Delta. They may also translate into loss of livelihoods and food insecurity where extractive activities affect access to land and natural resources, as observed in several World Bank case studies on mining communities.

Making Contracts Visible: The Transparency challenges

Over the past two decades, several initiatives have attempted to address this issue. One of the most prominent examples is the *Extractive Industries Transparency Initiative*. Established in the early 2000s, the initiative brings together governments, companies and civil society organisations in an effort to promote greater openness in the management of natural resources. The basic idea is that public access to information about revenues and agreements can strengthen accountability and help ensure that resource wealth benefits the broader population. In particular, transparency is expected to enable different actors to scrutinise how resources are managed and to question discrepancies between expected and actual outcomes. As suggested in the literature on resource governance, the disclosure of information may create opportunities for public debate and increase pressure on

governments and companies to justify their decisions. In this sense, transparency is often understood as a precondition for accountability, rather than as an outcome in itself.

Some scholars have suggested that initiatives such as the EITI may also influence how countries are perceived by international investors. Jamie Fraser, for example, argues that participation in the initiative can signal a willingness to adopt higher standards of transparency. In certain cases, this signal may affect perceptions of sovereign risk and even influence borrowing costs on international financial markets. At the same time, Fraser's analysis shows that these effects are far from automatic and vary significantly across countries.

Other authors have raised similar reservations. Catherine Corrigan, writing about the early implementation of the EITI, points out that transparency alone does not necessarily lead to greater accountability. Much depends on the domestic context: where civil society organisations lack the resources or expertise to interpret the information that is disclosed, transparency may have limited practical consequences. In this sense, access to information should be seen as a starting point rather than a complete solution.

Seen from this perspective, initiatives such as the *Extractive Industries Transparency Initiative* should be understood as part of an ongoing process rather than as a definitive solution: it has contributed to changing expectations about openness in the extractive sector and to making more information publicly available. Yet, their impact ultimately depends on the broader legal and institutional environment within which they operate. Transparency initiatives may help shed light on these processes, but they do not by themselves reshape the deeper arrangements through which resource wealth is distributed. If anything, the debate surrounding transparency in the extractive industries confirms the central insight of Kulamadayil's work: understanding the governance of natural resources requires close attention to the legal frameworks that shape how that wealth is managed and shared.

More recent scholarship has also begun to explore how new technologies might help address some of these limitations. As Olubusola Makinde and Philippe Le Billon note, transparency initiatives now generate large amounts of data on contracts, payments and ownership structures. Processing and interpreting this information is not always straightforward. Digital tools and data-analysis techniques may therefore help identify discrepancies in reported revenues, trace complex ownership arrangements or highlight unusual contractual provisions. Nevertheless, these developments raise new questions. Makinde and Le Billon emphasise that technological solutions are not neutral. Their effectiveness depends on the quality of the underlying data and on who has access to the tools used to analyse it. Without careful attention to these issues, digital approaches risk reproducing and potentially even deepening existing inequalities.

Turning the limelight on collective rights of indigenous peoples and minorities

Another extremely problematic dimension highlighted by Lys Kulamadayil is the impact of mineral resources extraction on the protection of the cultural rights of minorities and indigenous people. The Author aptly describes the acute and devastating human sufferings that too often occur at the bottom of the long value chain of the mining business activities.

Showing a moderate optimism, the Author cautiously acknowledges the positive contribution of judgments of certain domestic courts, mainly in the "Global North" asked to decide civil claims regarding violations of corporate due diligence obligations and duty of care standards as well as of the relatively recent laws on these matters.

The analysis then addresses the delicate and to some extent still controversial distinction between collective and individual rights. One first aspect relates to whether collective rights are justiciable also for individuals: while minority cultural and religious rights can be invoked by persons belonging to a minority and be enforced before judicial and quasi-judicial bodies, collective rights, such as the right to self-determination and, by

extension its economic dimension, namely the sovereignty over natural resources, are recognized rights of indigenous peoples, but they remain unjusticiable for individuals.

In this context, it is necessary to weigh mineral resources extraction not only against the prerogatives of foreign investors but, more sharply, to engage in assessing the pros and cons of these activities in terms of their contribution to the sustainable economic development in the host country. More specifically, the impact of mining businesses on local communities and indigenous peoples ought to be balanced with the right to development of the nation state as a whole. Consequently, where economic interests of a state are not aligned with the rights of local communities and indigenous peoples (i.e. self-determination and other fundamental human rights), governmental authorities regularly exercise their discretionary power in ways which encroach upon those rights. Thus, the recognition of self-determination and sovereignty over natural resources unfolds not as it generally works in contraposition with external foreign influences, but with regard to pressures exercised by the nation state within its own borders and towards parts of its own citizenry. Especially in cases where the domestic legal order does not provide for an effective protection of indigenous peoples' rights in respect of natural resources, international law may provide for a complementary protection, by upholding the substantive and procedural rights of peoples to their natural resources *vis-à-vis* their home states.

An equitable balance of those, at times extremely, diverging interests may be found in the doctrines, such as the “right to communal property” and the “*vida Digna*”, which were developed by Inter-American and African human rights bodies, strengthening the relationship between indigenous communities and their lands through the advancement of a concept of property as a trusteeship shared by a community – rather than reaffirming the traditional understanding of private property as an individualistic right. According to this conceptualization, such a property right shall receive formal recognition by the state in question as a collective title of ownership to the land, including its subsoil with all its natural and mineral resources. However, as aptly observed by Kulamadayil, it should be noted that such a property right may be subject to restrictions, where public purposes are at stake, provided that the conditions of necessity and proportionality (material conditions) are met and that the affected communities have been consulted prior to the imposition of any restrictions (procedural condition).

In this respect, it should be recalled that procedural guarantees are increasingly recognized to the legitimate owners of natural resources. One may think, for instance, of the prior informed consent (PIC) requirements set by human rights instruments, such as the UNDRIP, by multilateral environmental agreements, such as the Convention on Biological Diversity and its Nagoya Protocol, as well as, by the operational policies of international financial institutions, such as the World Bank's. All these international instruments require states to adopt adequate domestic measures that improve the legal protection of property rights *vis-à-vis* the host state itself and third parties, such as foreign investors. These mechanisms include collective rights of participation of and consultation with affected individuals and communities, as well as individual rights of access to justice and remedies for potential violations of those procedural rights. However, these mechanisms still operate unevenly and often remain fragile when confronted with strong economic interests. For this reason, ensuring that indigenous and minority rights are not only formally recognised but effectively implemented remains a central challenge in addressing the broader dynamics of the “pathology of plenty”.

Another fundamental tenet that should be strengthened and rendered more effective to reduce the negative impacts of the “pathology of the plenty” is the adequate sharing of the economic and non-economic benefits deriving from the exploitation of natural resources. This concept and its related rules derive from the principle of equity and aims at rewarding the individuals and communities who own and sustainably manage these resources within state jurisdictions, as well as in areas beyond national jurisdictions.

The increasing recognition of procedural guarantees, such as consultation and prior informed consent, shows a shift towards a more inclusive approach to resource governance.

Concluding Remarks

The analysis developed by Lys Kulamadayil offers an important reminder: the challenges associated with natural resource wealth cannot be reduced to a single factor, nor can they be addressed through one institutional reform. They are the result of a complex interaction between legal structures, political dynamics and economic interests. International investment, human rights and environmental law are moving towards an enhanced acknowledgment that improving effective transparency and strengthening the procedural and substantive rights of affected communities are necessary steps to ensure a sustainable distribution of resource wealth.

Cite as

Francesca Romanin Jacur & Roberta Ezechia, Unveiling Hidden Challenges of Resource Wealth, *Völkerrechtsblog*, 14.04.2026, doi: [10.17176/20260414-172920-0](https://doi.org/10.17176/20260414-172920-0).