Crossroads of the future in times of rebellion and pandemic: national pluralism and self-government. indigenous people in Chile

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Preliminaries

This paper does not analyze a specific experience of indigenous self-government[1] . In Chile, where the story is based, there is no experience of indigenous self-government. Therefore, the writing has a more limited intention. The purpose is to give an account of the advances in terms of peoples' self-determination or indigenous self-government, in places where the demand for political autonomy[2] is, for the time being, only a discourse and utopian pretension. Such is the case of the Mapuche[3] , since part of them have been demanding-struggling for self-government since the return to democracy (1990),[4] without any significant change in the direction of satisfying this claim. The elites in control of successive post-dictatorship governments, and of the State in general (members of the

1 In this paper the concept of indigenous is used with the meaning of people descended from pre-Columbian population and therefore opposed to descendants of Hispanic-European colonizers. The contrast entails the idea that the descendants of the pre-Columbian population were violated and dispossessed of their goods by the exogenous population descended from Hispanic-Europeans, the most important of these goods being territory.

2 In this text, political autonomy is understood as a form of the right of self-determination of peoples, which does not involve secession but the exercise of government by indigenous peoples within a State.

3 In this text Mapuche is used without "s" in plural. The word means/translates as people of the land (mapu=land; che=people), i.e. it is already pluralized. The Mapuche are the largest indigenous population in Chile. With 1.7 million people they make up 87% of the total indigenous population of the country and 10% (plus/minus) of the population of Chile (Servel, 2017).

4 Chile lived under a military dictatorship between September 1973 and March 1990.

The Chilean state-dominant nation: the Chileans), have refused to open the state to ethno-national pluralism, in terms of indigenous self-government.

The social explosion unleashed in Chile since October 2019 and expressed in citizen mobilizations that extend until the closing of this writing (slowed down by the COVID-19 pandemic since March 2020), challenges the power of the elites in control of the government and the State, seeking to improve the material living conditions of all the inhabitants of the country. Behind the slogan "dignity", this explosion has questioned the narratives of these elites, in matters as diverse as gender, environment, health, justice, inequality, corruption, educational content and age discrimination.[5] And, together with all the above, it has questioned the nationalist-assimilationist narrative of these elites, expressing an openness and welcome to ethno-national pluralism, which has made the discussion of the issue in neighborhood councils, the press, the national congress and even the government unavoidable. Has the time come for the State of Chile to address the Mapuche demand for autonomy or demand for Mapuche self-government?

In consideration of the political situation the country is going through, this paper examines the possibilities of advancing indigenous self-government in Chile (political self-government), taking into account the political-ideological-discursive conditioning factors that could make such an advance feasible or impede it. Accordingly, it attempts to answer the question already anticipated at the end of the previous paragraph. In order to clarify this question, the paper focuses on the political practices and speeches of the explosive juncture, which express the antagonistic relationship between the Chilean elites in control of the government (power) and the Chilean "people" (those who are not the elite and are on the move), plus the Mapuche demanding autonomy, in terms of future political coexistence.

The thesis guiding the narrative is the assumption that, while the developing mobilizations have contributed to airing the issue of the inclusion of the political demands of indigenous peoples, the way out of the crisis in terms of indigenous self-government follows the path[6] of what has been the ideological-political understanding of the Chilean nationalist elites, with respect to how they see "their" indigenous peoples' political demands.

5 The main contradiction of the moment in Chile is not between some kind of socialism vs. capitalism, but between a dignified life for all the inhabitants of the country and a form of capitalism (neoliberal free market). It is about "moving from a right-wing state to a state of

law" (La Cosa Nostra, *La alegría,* 2020).

6 By "course" is meant continuity in the ideas and political praxis of the elites, in terms of excluding other social and ethno-national sectors from power (government-State).

State and what kind of problems indigenous peoples (hereinafter IPs) represent within that State. Moreover, it involves the power that these elites have to impose these ideas, even when they have become unpopular and weakened. On the other hand, the understanding of the political processes by the Mapuche political and autonomist elites, who oscillate between participation-integration in the constitutional political process and isolationism, which excludes themselves from participating in the constituent political process underway in the country.

The treatment of the subject is descriptive-explanatory and conjectural with respect to the future. And it is done through the treatment of three themes, plus a general discussion and a conclusion. The first is basically descriptive, and deals with the succession of events that led to the protest in Chile, which has opened a door to possible changes in the constitutional society that could positively affect the PP. The second summarizes the explanations that both members of the nation-state and the PP.II. provide as an understanding of the political moment or conjuncture. A third theme gives an account of how the state-national political scene was left after the shake-up provided by the movement and its messy rearrangement. The fourth theme discusses the expectations regarding the episode of discontent, in the sense of whether Chile will advance towards the construction of a plurinational state with indigenous self-government. For this purpose, the discussion of reserved seats in the Constituent Assembly to be installed in April 2021 is contrasted with other moments in the history of the relationship between the PP.II. and the Chilean elite, looking for continuities or quality leaps in the positions of the antagonists. Finally, the conclusion conjectures regarding an opening to the re-foundation of the State, in consideration of the demand for Mapuche autonomy and self-government.

What happened in October 2019 in Chile? Describing the context

October 2019 looked to be just another month in Chile (the "oasis" as its president called it in a television interview).[7] However, something happened that was not even in the worst dreams of the president, his government team and the coalition of parties that accompany him.[8] Nor was it in the minds of

7 In October 8, 2019 President Piñera defined Chile as an oasis within a convulsed Latin America. In his words, Chile was a stable democracy with growing employment (Romero, 2019).

8 The government coalition, "Chile vamos", is formed by the Renovación Nacional (RN), Unión Demócrata Independiente (UDI) and Evopoli (Evolución Política) parties.

who transformed their role of opposition,[9] into a bureaucratic affair and disconnected from their constituents: voters; while they entertained themselves in the high politics of parliament, without any product coming out of it to alleviate the suffering of citizens.[10] Not to mention the branches of the opposition parties in the social movement, such as the Central Unica de Trabajadores (CUT),[11] that should have acted as sensors alerting of the coming social-telluric movement (usually co-opted by statonational parties, they have operated at the tail end of the social movement during the post-dictatorship, rarely leading it). As of October 18, a social explosion[12] of -until today- immeasurable dimensions occurred, shaking the country from end to end.

The politicians' nightmare unfolded as follows. At the beginning of the first week of October (day 4) a group of transportation experts, taking into account economic criteria (international oil price increase), suggested to the government to raise the prices of public transportation -especially the subway train- by 30 pesos (0.04 cents of a dollar at that date plus/minus). An amount that in value represented nothingness itself for elites, who do not use public trans- porte, and therefore do not know the price of the Metro ticket, let alone bread (Perez, 2017). However, this increase was destined to have disastrous effects for the most impoverished sectors of the country, who live in a situation where spending is greater than income. Put differently, they live in debt (Durán & Kremerman, 2019; Mayol, 2019).

The increase would take effect towards the end of that week (day 6), at which time the Minister of Economy publicly suggested to those who did not agree (day 7) to get up earlier to take advantage of cheaper rates (a phrase for which he had to publicly apologize on the 24th of the same month).[13] In the meantime, that same

9 The opposition is made up of the Christian Democracy, Socialist Party, Radical Party, Party for Democracy, Communist Party, and Broad Front (FA). And by parties outside the institutional framework that are very small and difficult to measure in terms of strength and impact (anarchists, troskyists, and others).

10 It has been observed that, as a result of the social outburst, the parliament has discussed and approved laws at a speed never seen before (El Desconcierto, *De dos años a 15 días,* 2020).

11 Co-opted by political parties since its inception and with huge problems of political corruption within it as the article by Macarena Segovia (2019) reports.

12 Social explosion is the term I will use to refer to protest mobilization. The concept refers to an outburst without political leadership or lacking the leadership of a political force.

13 There are workers who spend up to 2 hours on public transportation to get to their jobs and then back home. Getting up earlier in that situation is no joke. It has a huge impact on their family lives.

One day, a picket of high school students who understood the consequences of the measure, made an evasion to pay the fare, an action that would be replicated by others in the following days. Curiously, these first evasions did not have great economic costs for the State (government), because many students jumped the fences without actually using public transportation, limiting themselves to the gesture or the invitation to others to do so. And, in addition, because for them -the students- the increase did not affect them (although it did affect their parents, relatives, friends), they only sought to show society a path of rebellion and civil disobedience in the face of a charge catalogued as abusive.[14]

By October 14, the "evadir" action had been massified with the incorporation of adults, transforming it into a true "evadir" movement. The government then made the worst move of all the political options available to it. It sent the police to guard the subway stations, closed some of them - leaving users who were not participating in the protest without service - and began to repress the evaders inside the Metro facilities. Tear gas and massive beating left and right ended up annoying everyone and involving many more in the movement of discontent.

In those days the misplaced phrases become a national sport and above all fuel to stoke the fire (Mayol, Big-Bang, 2019). On the 17th, one of the members of the Panel of Experts, Juan Coeymans, justifying his management of the government, mentions that when some foodstuffs go up, nobody protests. The response of the movement was to increase evasion, and this time ticket validators and other infrastructure in the stations were removed. Then, the Minister of Transportation appeared on the scene to say with authority that the measure had been taken and was being complied with (Equipo actualidad y multimedia, 2019). She insinuates that the government would be discussing the use of the Anti-Terrorism Law if necessary (CNN Chile, 2019).

14 Associated with the evadir movement, murals were painted using the name of President Sebastián Piñera. And the fact is that, in a case highly publicized by the press only months before, the president had reached an agreement with the Chilean Internal Revenue Service (SII), for which he had to pay five years of taxes, for a recreational/rest property, which did not pay the taxes due for 30 years (Carreño, 2019). The Chilean population looked at this ruling of the SII as an example of justice benevolent with the rich and merciless with the impoverished sectors.

The words of the minister, far from calming things down by inviting dialogue, did not intimidate anyone or stop the movement. On the 18th, in the face of the uncontainable evasions and protests, Metro decided to close some of its lines after midday. By the afternoon of that day, when people were returning from work, the entire system was suspended. The population of Santiago was left on foot and in chaos for hours. At the same time, the government officially announced the application of the National Security Law -Anti-terrorist Law- against the evaders classified as violent. And then the largest social outburst in the history of the country took place.

Spontaneously, and expressing discontent that had been contained for a long time, people took to the streets by the thousands all over the country, to bang pots and pans as a way of expressing their displeasure with the government and all politicians. The popular indignation not only showed in the rejection of the 30 pesos increase in public transportation fares, but also in the diversity of denunciations and petitions of the posters, the rejection of 30 years of abuses (which in the case of the PP.II. of Chile is close to 500 years of abuses). The whole story of the return to post-dictatorship democracy and its economic (read macroeconomic) achievements was being questioned. The successful Chilean model, an idea widely spread outside the country (Davis, 2020), had meant subjugation of the citizens to a precarious life of extreme indebtedness and uncertain future, which each one had lived-suffered in isolation as a procession inside. With the protest, the model was shattered and was about to fall apart.[15]

Among the demands that emerged from the outburst were: 1. an end to the system of Pension Fund Administrators (AFPs). 2. Efficient, preventive health coverage and protection, with better hospitals, better treatment, and supply of specialists and supplies. 3. Free, quality education and social mobility that ends classist, racist, sexist segregation and declares without effect the debts incurred by students of middle and lower strata. 4. End the privatization of water by declaring it a national asset and lowering the cost of water and electricity rates. 5. Efficient public transportation service with fares that are adequate to the users' salaries. 6. An end to corruption, abuses of power and punishment for those who collude and embezzle from the treasury. 7. Help the environment and put an end to the

15 Some add to those 30 years the 17 years of dictatorship and the extension reaches half a century.

sacrifice[16] and droughts caused on purpose by plantations, diversion of rivers and acting against desertification and destruction of glaciers.

And, more subjectively, the demand emerges to put an end to the Constitution that currently governs the country (1980 Constitution), changing it for a new one emanating from the citizenry in deliberation (cabildos). It should be remembered that Chile is governed by a Constitution drafted during the military dictatorship, without the participation of any opposition, validated in a plebiscite without electoral records, and which was written to favor the sectors then in power with the aim of perpetuating their political, social, economic, ideological and cultural-European/ethno-centric ideology.[17] Strictly speaking, the three most important Constitutions that the country has had (1833, 1925, 1980), have been imposed on the citizenry through political and military violence sponsored-promoted by elites with a generally conservative ideology.

As far as the PPs are concerned, the demand for the construction of a new type of State, the plurinational State or State that recognizes that the country is made up of multiple nations and not just one (constructed from the State after the emancipation of Chile's colony from Spain), began to be strongly debated in popular assemblies. And, as such, those subjugated nations should recover their political rights such as the right to self-determination of the peoples, even if it were in the "internal" condition and not of secession, in order to maintain the unity of the country. Now, and strictly speaking, the idea of pluri-nationality is not only supported by the indigenous world, nor is it original from this juncture (although the paternity belongs in its first use to the PP.II); but it is promoted by Chileans as well as by members of the PP.II. In order not to go so far back in the previous government -second of Michelle Bachelet- a constitutional discussion was held, in which the concept was already installed in the political will of those who participated (Chileans and members of the PP.II.) as can be seen in the summary minutes (Archivo, 2017; Proceso Participativo Constituyen- te Indígena, 2017).[18]

16 In Chile, a sacrifice zone is known as a geographical area inhabited by the human population where highly polluting economic projects are being developed that are harmful to human life and have caused illnesses and miserable living conditions due to water contamination, toxic fumes, and others.

17 It is true that the 1980 Constitution has been reformed in its original version, but its gravitational center or main articles remain the same.

18 The process that Michelle Bachellet tried to carry out during the last months of her mandate, expressing little or no willingness to carry it out (together with the center and center-left parties).

The political ideas within the indigenous world, and particularly the Mapuche, show at the present time a level of discursive complexity and random political intentions. There have been Mapuche organizations -or which, not being Mapuche, have Mapuche members within them, like the political parties that aspire to represent all the inhabitants of the country- that from the beginning of the exploitation gave their consent to ethno-national pluralism with political empowerment as claimed by the movement in the street and the PP.II. (in fact, they had already proposed it in the Bachellet constituent process, mentioned before).

Others withdrew from the political process, positioning themselves as spectators of a fight between Chileans, pointing out that for the PP.II. there is another road paved by international law (hereinafter D.I.), which leads to the self-determination of the peoples; without specifying what is meant by that,[19] but leaving in the atmosphere a secessionist whiff. And still others, like political autists, continued and continue to pursue their own agenda of recovering what was usurped by the Chileans, without anyone's permission and without connection with the political process occurring within the Chilean State,[20] which has helped to transform the Araucanía region into a scenario of violent ethno-national relations, which has begun to claim the lives of Mapuche as well as Chileans (El Mostrador, PS condena, 2020; Díaz, 2020).

Unfortunately for the pretensions of advancing towards a single self-determinist national project of all the Mapuche, the above-identified strands of opinion do not dialogue with each other. Moreover, sometimes they even manifest hostility among themselves (Díaz, 2020).

The political. Explaining the context and its effects on the PP II.

Why did what happened in Chile happen? And what effects could it have on the Mapuche claims for autonomy and self-government? This is a question nestled in the minds of all those trying to understand the political moment of the country, and to foresee ways out of the crisis. In the professional, intellectual, academic, political and social leadership world, both in the state and in the nation, it is a question that is nested in the minds of all those trying to understand the political moment of the country and to foresee ways out of the crisis.

of his conglomerate), and that ended in nothing (Navia, 2018). Another moment of discredit

for politicians, today of opposition.

19 Position of the Consejo de Todas la Tierras, CTT (El Mostrador, *Mapuche leaders,* 2019).

20 Position of the Arauco-Malleco Coordinating Committee, CAM (El Libero, 2019).

In the case of the indigenous nations, explanations have been attempted, either for the need for clarification-knowledge or for other more pragmatic ones in relation to being able to appropriately channel the needs, interests and expectations of the social majorities in the turbulent conjuncture. A brief sample of these reflections-explanations provides us with the following clues.[21]

In the Chilean *think tanks*, some believe they see in the events "a crisis of emotions without a story", in which irrationality prevails. That is to say, all actors and antagonists act from emotions: fear, anxiety, worry, uncertainty, hope. This would be a social-emotional crisis that shakes the country, unlike what politicians in the government think, who see the matter as a crisis of public order (Roberto Izikon of Public Affairs/CADEM Quantitative Studies) (Cámara, 2020). Others believe that what happened is a "decoupling of subjectivities" resulting from the insensitive declarations of political technocrats with no connection to the population they govern. In other words, it would not be a matter of political-ideological projects disputing the political arena, but of human groups with different quotas of power, which do not connect among themselves, neither from the point of view of language nor of intentions or emotions. For example, the word "growth" makes no sense to ordinary people, who do not see their lives positively affected by the economic model. Moreover, they feel that when there is growth the rich gain; but when the economy stagnates or shrinks the middle classes and the poor lose (Matías Chaparro, Criteria Research) (Cámara, 2020).

Emphasizing the economic aspect, the "political crisis" is attributed to the fact that Chile has stopped growing in the last decade, and, therefore, speeches with promises of a better future do not excite anyone. Although the last decades witnessed a decrease in poverty, expansion and improvement in education and services, reduction of inequalities (still large), and expansion of the middle class, people feel that they live in a society where they are not valued (meritocracy) and social mobility is non-existent. And, as a culminating fact, power groups abuse others with impunity, which has led the population to stop trusting institutions: government, parliament, justice, church, political parties, police and military (Silvia Eyzaguirre, Centro de Estudios Públicos) (Cámara, 2020). Complementing the above, it should be added that Chile, which made great progress

21 The opinions mentioned here have been taken from extensive discussions and summarized to a minimum expression.

in combating poverty in previous governments, failed to engage the sub- jetivity of citizens, who did not see a real welfare in their lives. But they did see corruption and abuses of all kinds coming from people in positions of power (Gloria de la Fuente, Fundación Chile XXI) (Cámara, 2020).

Intellectual-academics think, for their part, that the anger of Chileans has crossed "a threshold of distrust" after which democracies are no longer sustainable. The country's citizens have ceased to believe in politicians in terms of solving their problems. They are facing a civilizational crisis where those who are more attached to the values of the right believe that those of the left are not capable of governing with competence; and those of the left see those of the right as incapable of governing with equanimity (Marco Morenos, Observatorio Política y Redes Sociales, Universidad Central-UCEN) (Cámara, 2020). These citizens would feel "suffocated", in a system that manages them without them having control over it, and that condemns them to an anonymity where they will not live better than their parents. The inequality that people experience and that has them overwhelmed is not of goods, but of perspectives for their lives. The country would have lost the story, that is, an explanation capable of installing a sense of patience in the population. In view of this deficit, the example of the French yellow jackets was inspiring to develop collective malaise (Eugenio Tironi, Consultant) (Cámara, 2020). Moreover, this disconnection between narrative and perspectives has connections with more remote moments. The Concertación de Partidos por la Democracia -the political conglomerate that successfully succeeded the dictator- lost more than one million votes in the 1997 parliamentary elections, while the null votes increased. There, the divorce between citizens and politics had already occurred and originated the discontent that would make its way to 18-O (Alfredo Joañan, Universidad Diego Portales) (Cámara, 2020).

Others state that the outburst is an event that cannot be anticipated and that expresses a crisis of social and political rules in society. The outburst shows a crisis of discourses. It is a hermeneutic or explanatory crisis. There is no narrative. In this crisis, unlike the one that occurred in 1973 and gave way to the dictatorship, there are no articulated sides confronting each other territorially. It is the people against those in power (the non-people). The political unrest is with the institutions and is manifested without vanguards waiting for those same institutions to resolve the conflict. Violence is part of how the people manifest themselves in situations such as this (Hugo Herrera, Diego Diego University, Universidad de Chile).

Portales) (Cámara, 2020). Complementing this vision, it is stated that the outburst is violence without semantics, a phenomenon of dimensions impossible to measure that has a meaning we do not know. The unrest is the background of things, but it is an unrest with politics (Alberto Mayol, Universidad de Santiago) (Cámara, 2020).[22]

In a more traditional approach, some think that the outburst, which they prefer to call rebellion, has to do with the more than 40 years of neoliberal exploitation model of Chileans, in which the rich sectors of society have accumulated wealth at the expense of sacrificing the environment, without any force or mechanism to prevent it. This would have provoked a mass of citizens disaffected from the model, from politicians and from the democracy tailored to the model, which was installed in Chile with the dictatorship. It would be a mass that today is in the streets expressing discontent without any leadership (Juan Carlos Gómez Leyton in Telesur, 2019).

Finally, the social outburst cannot be explained by resorting only to socioeconomic keys, although deep and structural inequalities exist. People can understand economic differences and even accept them; but what they do not understand or accept is the unequal treatment resulting from those differences, i.e., there is a symbolic ingredient operating in the outburst that has to do with people feeling abused in terms of gender, poverty or ethnicity. For example, a person can accept that another person earns a salary 20 times higher than him/her; but to be treated badly and humiliated in a hospital just because he/she is poor is intolerable and generates rage-hatred. If to this is added the distrust in a political world that shows permanent signs of corruption, with a justice system that promotes impunity for those who have money and the penalties of hell for those who do not, the situation becomes explosive. At some point the discomfort, previously endured, became expressed in rebellion. People experiencing inequalities and mistreatment began to have a goal: to put an end to them (Marcela Ríos, United Nations Development Program UNDP) (Cámara, 2020).

22 In the last two presidential elections, 42% and 48% of the electoral roll voted, respectively. Some attribute these numbers to the fact that since the first Piñera government (2010-2014), voting has been voluntary. Others attribute it to disaffection with the political system (T13, *UNDP*, 2016).

In the case of indigenous peoples or nations, not many are allowed to express their opinion on the causes that explain the social outburst. Among the exceptions is the voice of the Mapuche History Community (CHM). They think that what the country is experiencing is a crisis of moral delegitimacy, in which the privileged groups of society have abused the rest of society, both Chilean and indigenous, without consequences for them. Thus, influence peddling, collusion, cruelty and human rights violations have become the norm in relations between groups with power and those without it. This would already be intolerable and therefore the origin of the outbreak (Comunidad, 2019). For its part, the Centro de Estudios Rümtun (CER) launched a manifesto addressed to the Chilean statutory society and the Mapuche society in particular, where it declares that the outbreak is the consequence of institutionalized abuses operating for a long time on the plurinational population of the country and in particular with much emphasis on the violation of human rights, especially in the case of the Mapuche (Centro, 2019).

As a corollary of these explanations, it can be observed that things in Chile were not going as well as they were painted (the exitism[23] with the electoral democracy and the post-dictatorship economic model led the elites to believe they were the jaguars of Latin America), and the need for change is deduced from there, echoing the cry of the street by the social movement. But, just as there are differences or nuances when it comes to explaining why the country got where it did, it would be a mistake to assume that everyone shares each of the demands of that movement. Even more so when, within the reflections summarized above, there are visions representative of the entire political spectrum, including supporters of the government and of the political alliance that sustains it. However, what is interesting to highlight in these reflections is that, in general, they move in the direction of favoring changes in the constitutional society, and perceive that within these changes the relationship between the State and the public sector should be improved, going through other paths different from those tested so far. But we will see in the next subtitles where these diagnoses lead us or how far they take us, in terms of the opportunities open to the PPs in the current situation.

23 Exitism is understood, according to the RAE, as an inordinate desire for success (used mainly in Chile, Argentina, Bolivia, Uruguay).

Politics. The social outburst shakes and messes up the domesticated Chilean statutory political scene, including the PP II.

Until October 17, 2019, political life in Chile marked a routine that did not noticeably alter the positions of power of those elites that had made of the transition from dictatorship to the present electoral democracy,[24] a more/less secure preserve of life and entrepreneurship (Matamala, 2018).[25] Otherwise, the great promise of the transition, expressed in the campaign slogan that opened the way to post-dictatorship democratic governments: "Chile, joy is coming", which managed to keep numb many who believed that their lives would improve (and they improved compared to the times of dictatorship); by the late 1990s it had begun to fall as a seductive story (it lost the inculcating sense of patience, as defined by Tironi in the previous subtitle). The achievements began to seem insufficient to citizens, especially to the new generations with new expectations, and new abuses began to become evident.[26] The challenge to authority began to emerge.

The 2000s saw people in the streets demonstrating for various reasons. In 2006, the movement of the so-called penguins,[27] high school students, who protested against the state and neglect of public education in comparison with private education, had an impact. And with it, the fate of the children of the most vulnerable sectors of the country, in terms of changing their lives through the promise of education as a vehicle for social advancement (IRG, 2007). By 2011, students were once again on the streets fighting back

24 Electoral democracy because it is a matter of electing political authorities every few years, without any other form of citizen participation or citizen control over them, such as revocation of mandate, citizens' bills or frequent plebiscites-consultations on matters of national interest or that affect the lives of all.

25 Thirty years of post-dictatorship democracy have seen the emergence of a political-business elite, linked to both former opponents of the dictatorship and its sympathizers, who take turns in government and on company boards (a perverse relationship that favors lobbying and corruption). Names, in a long list, can be seen in: De Ovalle, 2019; WenaChile, 2020; Miranda; 2020; Meganoticias.cl, 2019; CNN Chile, *10 years,* 2018.

26 Example: a university student in Chile, coming from the lower and middle social strata, must incur study debts that can keep him/her 15 to 20 years captive of the banks (Freixas, 2018).

27 The uniform of the high school students, of common gray, blue and white, is similar to the color of the penguins.

against profit in education and for free education at all levels; while the environmental movement tried to prevent projects to intervene in rivers, glaciers, oceans and the construction of coal-fired power plants or intervening rivers. And the following years saw the rise of the movement against the pension system. However, the marches that gathered hundreds of people at the beginning became more frequent and massive until reaching one million demonstrators in 2016 (AFP/Caracol television, 2016).

The PP.II. also figured in the political mobilizations with their demands (in addition to participating in all the others). Moreover, to some extent they preceded the Chilean social movement with theirs (at least the Mapuche), since already in the early 1990s, in the first years of the first post-dictatorship government, an organization (the Consejo de todas las Tierras-CTT) had launched an initiative to recover lands usurped by Chilean settlers since the end of the 19th century, an initiative that was followed by others towards the end of the same decade (the Coordinadora Arauco-Malleco, CAM, for example). In these acts of rebellion, the demand for Mapuche autonomy and self-government, which had previously been sown by some Mapuche professionals and intellectuals (Marimán, 1990a; 1990b), began to be cradled, grow and develop, making it possible to speak in the 2000s of an autonomist segment or current within the Mapuche movement (Foerster, 1999).

Meanwhile, another part of this movement, which had made a pact with the transition rulers for different political empowerment, committing votes and political loyalty in exchange (Act of Commitment -in New Imperial-, 1989),[28] at the end of the 1990s had become disillusioned with the new ruling elites. The "permitted Indians", as some social scientists have called them (Hale, 2007), also began to express their discontent and some of them even began to move towards the discourse of plurinationality and self-determination of peoples.

28 The organizations that signed this act were those that confronted the dictatorship from 1979-1980. Most of them were fractions of the first and most important of that decade: Ad-mapu. Most of them ended up in the mid-1980s transformed into branches of state-national parties: Ad-mapu (controlled by the Communist Party), Nehuen mapu (controlled by the Christian Democracy party). Calfulicán (controlled by a fraction of the Socialist Party). And there are still other minor ones (see Marimán, 1990a).

Since 2000 the governments of the Concertación por la Democracia,[29] the conglomerate that ruled the country with four presidents for 22 years, began to violently repress the Mapuche in the process of land recovery (applying the anti-terrorist law). Causing that, from 2001 to the present, 15 of them have been killed by police-repression forces (La Izquierda Diario, 2018), and many have spent long periods of time in jail or are still in jail (without conviction and only as a precautionary measure, or in processes questioned by the use of hooded witnesses or with evidence assembled a la carte to produce convictions), originating the problem that the Mapuche and indigenous world in general calls "Mapuche political prisoners".[30]

But this political scenario, although it was beginning to bother the elites and their political system (modeled on the dictatorship), reflected in the increasingly frequent use of repression and even the Anti-Terrorist Law, did not keep them awake at night. As one of Piñera's foreign ministers (Andrés Allamand) put it: "Countries with a successful track record are not immune to social protest. Without going any further, the Arab Spring had its origin in Tunisia, the most highly developed country in North Africa" (El Mostrador, *Se le olvidaron,* 2020). That is why the president, as noted, took the luxury of describing Chile as an "oasis" in Latin America.

All that changed on October 18, 2019 (18-O) when Chile exploded. What follows from then on is a story of political blunders and panic of the elites in general, worthy of academic and if not psychological treatment. The government, seeing that people were not going home even late at night and that in many places in Santiago and the rest of the country barricades were being erected and stores were being looted, declared a "state of emergency" and sent the military to patrol the streets and repress. But the people did not give up their movement. They withstood the military and police onslaught at a cost in human lives[31] and humiliations of all kinds.

29 Integrated by the parties: Christian democracy, socialist, radical, for democracy; and to which were added the communist and democratic revolution under a new label in the second Bachelet administration: New Majority.

30 Several international rapporteurs sent by the UN have called the attention of the Chilean government to procedural abuses against the Mapuche. See, as an example, the report of rapporteur Ben Emmerson (EFE, 2013).

31 The UN Office of the High Commissioner on Human Rights recorded 26 deaths for the first month of protest alone (Office of the High Commissioner, 2019).

more deprivation of liberty for many,[32] so that by October 19 and with the idea of decompressing the protest, Piñera disavowed his Minister of Transportation, saying that they had listened to the voice of the people and left without effect the 30 pesos increase. But it was too late, the people were going for more (and are still pushing for more). Then, on the night of October 20, the president declared war on his people (T13, *President Piñera,* 2019):

> We are at war against a powerful, implacable enemy, who respects nothing and no one and who is willing to use violence and crime without any limit, who is willing to burn our hospitals, the Metro, supermarkets, with the sole purpose of producing as much damage as possible. (Prensaruil, 2020)

But this turned out to be Chile's shortest war. Strictly speaking, a war of words that did not last long. First, because the military chief of the state of emergency declared on October 21: "I am a happy man, the truth is that I am not in war with anyone" (Basoalto, 2019), removing the floor to a self-coup type of exit that was in the air.[33] And, secondly, because on October 25 the most massive peaceful demonstration in the history of the country took place. In this political course, that is, with the president prevented from using the military at will and with the country's population in the streets without stopping the mobilization, he and his government had to tie down the warmongering discourse and begin to try their luck by offering greater sacrifices to the insurgents. And, between resigning and calling for new elections or sacrificing something of similar value in symbolic terms (given that other gifts -such as a social agenda- to help the poor did not appease anyone), he ended up surrendering the 1980 Constitution (the dictator's Constitution), for the sake of social peace.

32 According to the National Institute of Human Rights of Chile-INDH, from October 2019 to March 2020 there were 4075 human rights violations (physical violence 3230 cases, sexual 432 and psychological 309). The uniformed police, carabineros, is the main culprit in these cases, with 93% of the cases reported (INDH, 2020). Amnesty International, on the other hand, mentioned that
-citing the Chilean Ministry of Health as a source - that 12,500 people were reportedly admitted to the emergency department of a hospital during the protests. 347 would have had eye damage. And that, according to the National Public Prosecutor's Office, 5558 were abused by State agents with 1938 damaged by firearms. In addition, almost a thousand children and adolescents have been affected and more/less 250 people would have suffered sexual violence (Amnesty International, 2020). The Minister of Interior acknowledged abuses (T13, Minister Brumel, 2019).

33 This, which was a rumor at that time, has been implicitly confirmed by the former Intendant of the Santiago Region and now a minister in the Piñera government, Karla Rubilar, in recent confidences on TV. See program "Tolerancia Cero", CNN Chile 19/Oct/2020.

Thus, late at night on November 15, and without consulting the insurrectionary movement, the government, through the coalition of government parties and the opposition to the government (without the consent of each party), signed the "Agreement for Peace and the New Constitution" creating the conditions for liquidating the 1980 Constitution. The agreement was limited, among others, to the following points: 1. Plebiscite to say "I approve" or "I reject" a new Constitution (non-binding vote). 2. If the "I approve" option wins, to choose between a Mixed Con- vention (equal percentage of elected people and congressmen) or a Constituent Convention (exclusively elected citizens). 3. 2/3 as a mechanism for approving future constitutional laws. 4. Mandatory ratifying plebiscite at the end of the process. To create a Technical Commission to fix details of the agreement, among which would be discussed the parity participation in relation to gender and the possibility of reserved seats for the PPs in the Constituent Assembly.[34] The doors were thus opened to re-found the electoral democracy inherited from the dictatorship and to change the centralist, subsidiary, uninational, etc. State model, mutating it into a new one, through a new Constitution.

How did the different political actors react to this agreement? On November 15, the political scenario took a new turn, which will remain more/less straight until the plebiscite of October 25, 2020, and which is marked by the fact that the political parties, half-recovered from the coup of 18-O/2019, regain some of their lost power. However, the social movement reacted with astonishment and horror to the agreement. From there they wondered who authorized the center and left politicians who appeared signing,[35] to negotiate for the movement. The cost was expensive for some of them. The Frente Amplio (FA), formed mainly by former student leaders, head of the mobilizations of previous years, and with the most renovating discourse in progressive terms in the constitutional society, ended up divided and accused of having grown old in its political practices at the level of the rest of the parties (Marín, 2019). One wing rejecting the agreement migrated with still uncertain directions, although they joined the campaign

34 I will return to this point, given its importance, in the following topic. Full text of the agreement at: https://bit.ly/3pEDNIT

35 During the entire development of the demonstrations from October 18, 2019 and until October 25, 2020, with rare exceptions, no politician has been allowed to approach/join the marches nor has space been given for their banners or publicity. The protesters' rejection of politicians is so great and transversal, that this attitude has kept the movement protected

from being instrumentalized in favor of any political party.

for the approval of a new Constitution. The Communist Party stayed out of the agreement and from that position criticized it, but at the same time accepted it (T13, Why the Communist Party, 2019).

The Chilean right wing felt a respite with the agreement, as can be seen in the words of Senator Jacqueline Van Rysselberghe, militant and leader of the most important party of the right wing, the Independent Democratic Union (UDI): "sitting here is an effort of dialogue in an environment where fear, violence and lack of peace reigned..." (Senate, 2019). But already recovered from the initial blow and seeing that the shake and its aftershocks were diminishing, some would begin to evict the idea of a new Constitution, promoting a rejection vote in the plebiscite (Alvarado, 2020), which ended up dividing it between those who campaigned in favor of the "approval" of a new Constitution, and those who "rejected" it (division with consequences in the approval of laws, in which the government has lost legislative battles. And also in relation to ethno-politics).[36]

Alongside these blocs, which are the ones that have taken turns in power-government during the past 30 years, on either side are more maximalist positions. On the right are those nostalgic for the dictatorship, grouped in a party that became known in the last presidential elections as the Republican Party (PR). They were from the beginning reluctant to change the Constitution and condemned Piñera's government for having sacrificed the Magna Carta of its champion: the dictator Augusto Pinochet. And given that there would be a plebiscite, without being able to avoid it, they called for a rejection vote (Diario Financiero, 2020). On the side of the left outside the system, others held the position of not participating in the constituent process and not exercising the citizen's right to vote. That political position, in their logic, would really represent the discontent that exists with politicians and the present political system, favoring not to endorse a new instrument of domination (Gómez, 2019).

Nor have the Mapuche responded with a single position or voice to the relevant issues of the current situation. As mentioned in the previous subtitle,

36 As an example, the parliament passed a law that displeased the government with votes from legislators of the government coalition (which deepened the break in the coalition), which allowed the withdrawal of 10% of the pension savings of each Chilean, in order to circumvent the economic-pandemic crisis (Cooperativa.cl, 2020). And in relation to ethnopolitics, divided between those who wish to repress more the Mapuche and others who support the government in the intensity of its repressive management (El Mostrador, *Chile vamos acusa,* 2020).

There were those who welcomed the agreement and made themselves available to the initiative, believing they saw an open door to their pretensions of autonomy-self-government. Within this position are Mapuche who are identified in the milieu and by the movement as right-wing: the Aithue Foundation and the Mapuche Enama Corporation, for example. Mapuche of the center and left: in general, this category includes Mapuche who belong to constitutional parties from the Christian Democracy (PDC) to the Communist Party (PC), including the Socialist Party (PS) and the Broad Front (FA). And Mapuche self-identified as autonomists: The Association of Mapuche Mayors (AMCAM), the Community of Mapuche History (CHM), the Center for Rümtun Studies (CER), the Mapuche Wallmapuwen Party (WMW).

Others, also self-identified as autonomists, marginalize themselves from the constitutional constitutional process, arguing that it is alien to them, a matter between Chileans, and under this perspective the Mapuche would have to carry out their own constitutional process (El Mostrador, *Mapuche leaders,* 2019). This is the case of the Council of All Lands, for example, which says - through the mouth of its leader Aucán Huilcamán as we read in the following quote - that this process has already been underway since before the outbreak:

> We would like to reaffirm the right to self-determination before this Committee on Constitution, Legislation, Justice and Regulation and before the Senate of the Republic of Chile to recognize and accept the Mapuche Constituent Process that we have been carrying out prior to the Chilean social outburst and that we already put on record before a Session of the Chamber of Deputies on June 12, 2019, where we announced that we would definitely go through the route of Self-determination towards the formation of a Mapuche Government in the south. Whose Government will materialize under the protection of International Law in view of the fact that the Multilateral Organizations that create International Law have advanced with giant steps in the face of the Doctrine of Denial that the Chilean State has maintained with the Mapuche People and their rights (Clarín, 2020).

And still others do not even pay attention to the process, because theirs is to con- quest land, to go on shaping a territory and develop autonomy and self-government there de facto without asking anyone's permission (El Libero, 2019). Héctor Llaitúl, leader of CAM and of the idea of rebuilding the Mapuche nation in political action or praxis (considering self-defense), puts it this way:

> The constituent process does not guarantee a structural transformation that would resolve the underlying problems and the colonial violence to which we are subjected. Thus, it is a contradiction that certain "enlightened" people, who are

supposed to be

> intellectuals of our history and of the history of the peoples of Abya Yala, aspire to participate in these institutional spaces with plurinational characteristics, which have been used at the continental level to intensify the neoliberal cooptation of hesitant sectors accustomed to begging political representation from the elites. (Díaz, 2020).

In synthesis, to the Plebiscite on the New Constitution -Approve or Reject- (the mother of all battles for some; "the joy is coming". 2.0. -(the mother of all battles for some; "the joy is coming" for others), all the actors of Chilean constitutional politics arrive le- sioned or fragmented in some way, unable to overcome their internal disagreements. The social outburst managed to shake the entire Chilean political system and even cause panic in the ruling elites and permanent residents of the State. And although it has succeeded, in turn, in raising the hopes of people/citizens of different social strata, genders, ethnicity and age, and making them dream of a better or dignified future, as they call it, the truth is that, in terms of a force capable of moving forward with a national project, things are not very clear, because the movement itself, lacking leadership as described at the beginning of this paper, does not have a long-term project but rather short term motivations: a set of denunciations and demands already typified in the first subtitle.

The current environment in Chile resembles a war of positions in which everyone is against everyone else, and where the messianism of each one inhibits the possibilities of articulating a general alliance against the current rulers and the model they support (which, given the above, could have another government as indicated by the surveys. El Mostrador, *El presidenciable,* 2020). The PP.II. are not out of this political game, in which the re-foundation of the State enunciated by some[37] , seems to be a captivating word, but with uncertain possibilities of becoming a reality, at least in the short and medium term or in a full way.

Discussion. Hallucinating a "dignified" Chile, but with a ground wire.

Is Chile living a *momentum*[38] refoundational of the State? On October 25, 2020, all doubts were dispelled as to what the inhabitants of Chile want,

37 On refoundation see the seminars organized by "La Cosa Nostra" (2020).

38 Momentum: "Impulse that an idea [or a political action] has at a given moment" (Gutiérrez-

Rubí, 2019).

in constitutional matters. By a resounding 78.27%, the option I approve (a new Constitution) won in the plebiscite that emerged from the agreement of November 15, 2019 (El Mostrador, *Con pandemia,* 2020). Otherwise, the Constitutional Con- vention option won by 78.99%. The numbers became the epitaph for the tombstone that will adorn the tomb where the Constitution of Pinocchio will rest, once the new one emerges. But they also show that Chile was not a divided country, as the pro-rejection propaganda announced, but a country captivated by political and socio-economic elites living in three communes of Santiago, where the rejection option won, and not even by an overwhelming number (only in five communes of the country did the rejection win. Two of them in the extremes of the country, and three of them -as already mentioned- correspond to the rich neighborhoods of Santiago).

The immediate consequences of the vote were a new slap in the face to the political system, and even more precisely, to the set of political parties-blocs that have alternated in power-government (conservatives or right vs. progressives or center and center-left). The right, in particular, was resoundingly defeated. The part of it that insisted on defending the dictator's Constitution fell with it. The center and center-left -or renewed left of the 1990s- went out to try to capitalize on the triumph, but there are those in the movement who do not forget that the governments it headed, behind the nomenclature "Concertación de Partidos por la Democracia", is as guilty as the right for the consequences of the implementation of the free market model (with extreme privatizations in the economic field) and neoliberal (individualistic in the ideological field). And finally, the maximalist left,[39] showing an opportunism without a project, tried to capitalize in its favor the 49% of voters who did not vote in the plebiscite, under the idea that "the party of the NON-ELECTORS is still the majority of citizens" (Gómez, 2020).[40]

39 Small groups self-identify as anarchists (they sign murals with the A in a circle), Trotskyists, proletarian communist party, revolutionary left movement MIR, and others. In general, their struggle is to end capitalism right now, without it being clear what will replace it. Their incidence in the institutional political processes is minimal.

40 In the plebiscite, 50.90% of the electoral roll voted, which is considered the highest participation in voting with a voluntary voting system. In numbers, more than 7.5 million people voted (Servel, 2020). If the march of more than one million people had an impact on what happened as of October 2019; the more than 5.8 million votes I approve of, give an end to the transition to post-dictatorship democracy and to the tutelage of the political system by the right wing.

However, not everything has been said or paved towards a happy ending in this story. There is a new vote coming up in the next few months to elect the Constituents who will draft the new Constitution (April 11, 2021). And here is something to dwell on, because it has and will have a very decisive impact on the PPs and their possibilities of advancing the agenda towards autonomy and self-government. If you remember what you read in the previous subtitle, the agreement of 15/Nov/2019 had a fifth point (agreement 10 in the official document), which said that a Technical Commission[41] would fix the way in which the PP.II. would participate in the elaboration of a new Constitution. Well, between 18-O/O/2019 and 25-O/2020 nothing progress has been made in this regard, which leads one to think that, although a year of mobilizations have ended up burying some ghosts (the weight of the dictator, his dictatorship and his Constitution), there are still others fluttering on the scene.

I will expand on the latter. It was more or less an easy process within the Technical Commission to agree on gender parity for the Constituent Convention. The parliament took up the commission's proposal (and the desire of the feminist movement) and passed a law that will allow parity. Chile will be one of the first cases in the world in which a constituent assembly will have 50% of members of each gender. Otherwise, the idea of granting reserved seats to the PPs for that same Convention has become an almost insurmountable obstacle. The barrier to progress has become a debate about who are indigenous and therefore who can vote under that condition.

The party elites of the right-wing government have proposed the creation of an indigenous electoral registry (and they are not budging from that position), in which people certified as indigenous should be registered, by a document issued by a state institution accrediting indiginity: the National Corporation for Indigenous Development, CONADI (González, 2020).[42] Meanwhile, representatives of PP.II. and opponents of the government argue that: (1) it is too late to do the following

41 The Technical Commission is a group of professionals of diverse *expertise*, coming from universities and study centers, who were proposed by all the parties that signed the Agreement, to work on the details of the Agreement that will not be finalized on 15/Nov/2019. Their resolutions are not binding but proposals. Among these details are the gender parity issue (already resolved), the issue of reserved seats for the PP.II. and a representation for the handicapped in the constituent (still under discussion). There is/was no representative of PP.II. in this Commission.

42 This was an original proposal by right-wing senators Ena Von Baer (UDI), Rodrigo Galilea

(RN) and Felipe Kast (Evo), later complemented with other nuances by Luz Ebensperger (UDI), Julio Durana (UDI), Francisco Chahuán (RN) and Kenneth Pugh (independent).

(2) that the indigenous condition is already determined by an indigenous law in force in the country since 1994 (No. 19,253), and by the censuses that have been carried out in the last decades in the country, which use self-identification (self-ascription) to determine the ethnic belonging of the population of the State. (3) That insisting on such registration would leave out of the process more than half of the indigenous people of the country who do not have such certification, besides decreasing their representation in the constituent, which should be proportional to the sociological weight of the indigenous population according to the last population census of 2017: that is 12.8% (Carvajal, 2020).

And, by the way, there are those who do not see any gain in participating in the discussion in case reserved seats were obtained. The latter see in the debate, a:

> ...arbitrary imposition to establish a colonialism at the margin of the right to self-determination...[which] lacks absolute legitimacy due to the flawed process that has been established. The reserved seats, in the practical experience in Latin America and the Caribbean, is a failed political formula (El Desconcierto, *Aucán Huilcamán,* 2020).

Apart from this last opinion, political life continues to discuss the issue of reserved seats, although this discussion has become a drama as the date for electing the constituents approaches (considering that candidates must be chosen, signatures must be gathered to endorse them, campaigns must be carried out, etc.). The frustration of not having assured indigenous representation in the constituent assembly, one year before 18-O/2019, is verbalized in this way by the only two Mapuche parliamentarians, who occupy seats in both the Chamber of Deputies and the Senate:

> ...the right wing must assume its responsibility towards the country...the representatives of the executive and the ruling party have maintained a permanent position of forcing indigenous voters to build a special electoral roll [read electoral registry]...the indigenous representation in the convention may be equivalent to 12.8% of the native population, according to the 2017 Census (Senator Francisco Huenchumilla -PDC- in: Cambio 21, 2020).

> Today and given the context, they are demanding that the indigenous be registered in a special register, and according to the registration in that register the percentage of reserved seats will be calculated, which seems to me ridiculous, they only want to reduce indigenous participation to a minimum. Here there is no doubt that the government and the economic powers will be the ones who will have the right to vote.

> The Pre-existing Nations are almost 13% of the population according to the National Census and as such our representation should be in proportion to this percentage of the population, in order to have legitimate and democratic participation at the time of writing a New Plurinational Constitution. (Congresswoman Emilia Nuyado -PS- in: Clarín, 2020).

The reasonings, which denote frustration, show an attitude of the elites, mainly from the right (although not exclusively from them),[43] in the sense of maneuvering to exclude the PP.II. from the constituent process or at least to diminish as much as possible their representation in it. For it they gain time with tricks to arrive to a moment in which, for tiredness, it is declared that it was not possible to agree anything and in that way to leave them out. Strictly speaking, the representatives of this position think that having been open to consider reserved seats is already in itself a concession-exceptionality on their part, because "in comparative constitutional law", it is understood that something like that goes "against representative democracies" (opinion of Natalia Gonzalez, member of the right-wing *think tank* and highly influential in the present government, Libertad y Desarrollo, Gonzales, 2020). But to accept self-identification to determine who votes as indigenous, is going too far, because:

> ...a self-identification regime has numerous problems that undermine the rationale of the reserved seats - to guarantee the representation of members of indigenous peoples, and that this system generates electoral uncertainty and allows a potential tacit double representation (opinion of Luciano Simonetti, Libertad y Desarrollo, in González, 2020).

Finally, they recall that giving reserved seats in the proportion requested by their antagonists means not respecting other Chileans, whose vote would weigh less than the indigenous constituents, because there are districts in the country "of great size, mega districts such as Maipú that with more than 1 million voters have a large number of indigenous voters.

43 Remember that it has been argued here that since 2000 the Concertación de Partidos por la Democracia began to treat the Mapuche with an iron fist, which has meant loss of human life. What characterizes part of the center-progressive elite is rather their hypocritical or in more "politically correct" terms, in the sense of trying to show a good face in the face of the challenges imposed by the indigenous demand, but working against them in the moments in which they could help to advance solutions such as the ones they ask for, or simply repressing them.

ne the right to elect 8 quotas. Not having this in view in the debate jeopardizes the principle of equality and proportionality of the vote among citizens" El Mostrador, *Escaños reservados,* 2020). That is why they offer 15 quotas subtracted from the 155 constituents to be elected. The number is five seats lower than the number that should correspond to the PP.II. considering that they are 12.8% of the population of Chile (according to the 2017 census there are 2,185,792 people who recognize themselves as indigenous). This especially affects the potential Mapuche representation, given that they alone make up 87% of the country's indigenous population. In this sense, they continue arguing, it would be necessary to combine in a good way "the participation and representation of indigenous peoples with the principle of equality and proportionality of the vote that prevails in our electoral system" (El Mostrador, *Escaños reservados,* 2020). And, in doing so, they would be seeking that the representation of IPs would meet the requirements of "the best practices worldwide" in terms of minority representation (El Mostrador, *Escaños reservados,* 2020).

Why, after losing a plebiscite so overwhelmingly, does the right-wing continue to act against the popular will, which clearly and in accordance with the spirit of the 25-O/2020 vote, favors the arrival of the PP.II. to the constituent in proportion to the percentage of the population they represent in the country? Perhaps we have to go further back in the immediate history of post-dictatorship democracy to explain this attitude. The elites fear, as Nuyado says in a previous quote) the political empowerment of the PP.II., as they associate it with atomization of the country (and I leave aside explanations that allude to racism, as can be seen in Richards, 2016). The great fear that runs through these elites was reflected in a discussion two decades ago in parliament. On June 16, 1999,[44] and in a climate of government-(power) vs. Mapuche tensions at that time; to the bill of the Minister of Planning and Cooperation asking to reactivate the discussion stalled for years on constitutional recognition of the PP.II. and approval of ILO Convention 169,[45] the right wing responds as follows (I summarize).

First, that constitutional recognition, bilingual-inter-cultural education and allowing international organizations to meddle in our affairs is bad policy. It leads the country to disintegration as a Koso- vo. Otherwise, and contrary to all historical, anthropological and anthropological research, it is a bad policy.

44 Corresponds to Legislature 340th, Ordinary, Session 6a, entitled: "Debate on the 'indigenous question' in the Chilean Senate: summary of the Report of the Minister of Planning and

debate".

45 Chile took 20 years to ratify C169 compared to the first signatory states.

and archaeological, the Mapuche for the right could not demand territory in Chile, given that they would be a group that arrived from Argentina to Chile in the 19th century, and as such an extraterritorial minority (senator, designated, Martinez Bush). Second, a subject cannot be recognized as distinct from Chileans, when it is part of Chile. The Mapuche are Chileans, who like any other Chilean have particular ancestral origins but that do not make them special. Therefore, to demand autonomy is to want to divide the country that has cost so much to form. To give them land, on the other hand, is to condemn them to misery. The development of humanity goes hand in hand with advances in technology. It is necessary to educate them so that they can be incorporated in the best way to the Chilean civilization (Senator Sergio Diez, ex-minister of foreign affairs of Pinochet and landowner in Araucanía).[46]

As can be seen, there is a nineteenth-century assimilationist nationalism operating as an ideology in the subconscious of the Chilean nationalist elites, who believe that each nation has its own State and the Mapuche are Chileans because that is the nation of the State. Now, it is not that this nationalism does not evolve with time (new generations). In fact, in a 2012 United Nations Development Program (UNDP) investigation, it is recognized in one of its chapters by Mapuche interviewees that today's young settler-landholders in what was once exclusive Mapuche territory treat the Mapuche better than their parents or other ancestors. Moreover, sometimes they do not even give a treatment because they live in Santiago or other major cities and have their estates/properties in charge of foremen who understand and relate to the local population around them (De la Maza & Marimán, 2013).[47]

Hence, if the argument was in the near past, it cannot be granted constitutional recognition (demand today verbalized as a pluri-national State), because it is the prelude to the division of the State. Nor less to grant

46 Both of these opinion summaries come from interventions in the 340th Legislature, Regular, 6th Session.

47 The European settlers brought by the Chilean government to colonize the Araucanía with a non-indigenous population during the second half of the 19th century settled in the area. Today it happens that great-grandchildren of those former settlers are living in big cities (for professional or other reasons), leaving their inheritances in the hands of local workers. Thus, contact between owners of large properties and Mapuche often no longer exists or is very infrequent or is mediated by the property workers (Betancur, 2020).

autonomy-self-government because Chile is a unitary state with a single government and this also feeds the possibilities of fragmentation of a state. It is understandable that these elites have mutated to a more politically correct language, but equally effective when it comes to inhibiting advances in the political empowerment of the indigenous people, which they interpret with the same fears as those of yesterday. In the end, these elites, in terms of political culture and nationalist statonational ideology, continue to be -or operate- in their unconscious in the logic of encomenderos of the past, only in Cristian Dior suits.

This is the great stumbling block to advance towards autonomy and indigenous self-government in Chile, in the immediate future. The existence of anachronistic elites in their way of confronting the "other", incapable of recognizing it as a subject of political rights. Their delay in ratifying ILO C169 gives them away (only in 2008, almost 20 years after the first countries to ratify, and because they were facing a real Mapuche rebellion as a result of the murder of a young activist). And furthermore, the implementation of the C169 in good faith, as in the realization of consultations and decision making considering what the PPs want, which has been permanently denounced as precarious by the PPs, also betrays them. In consideration of this, it has not been easy, nor will it be in the future, to advance towards Mapuche autonomy and self-government in Chile, as long as the nationalist nineteenth-century political culture of the elites and dominant conservatism does not evolve (even in those who label themselves as progressives).

Neither does the attitude of some citizens within the PP.II. The attitude of some citizens within the PP.II. in the sense of marginalizing themselves from the political processes within the constitutional society, on the basis of arguing that it does not concern us, since it is a problem of the western world; while we have our own, ignoring that the solutions to our problems depend on opening the constitutional society from above, from the locks that the dictatorship put 40 years ago with its Constitution, and making the country politically more decentralized and more inclusive in democratic terms than it is today, characterized as the most centralized country in the world after North Korea (Valenzuela, 2017). And from believing that only on the basis of pro- pious force we will defeat the ethno-national enemy, when we are even a minority in the

The territory being claimed does not have the social or military strength to carry out this strategy (with which some are playing dangerously).[48]

Finally, waving the C169 or the 2007 UN Declaration under the noses of the national antagonist, the Chileans, or filing complaints with international organizations without having the strength to back them up, has proven to be no better strategy than direct confrontation. The current situation shows that articulating alliances within the state-dominant nation with members receptive to the desired changes can lead to triumphs (even if only partial). Of course, this alliance-building cannot be done in the same way as the Mapuche who militate in Chilean state-national parties, who, although they work with good intentions towards their group of belonging, and turn out to be good allies there, in the end the 30 years of post-dictatorship governments have shown that their actions from within them weigh less than a feather in the transcendental political decisions of those political forces. And, in some cases, these militants end up committing, from their positions of power, abusive acts against their brothers of belonging: the activists of the Mapuche autonomist movement.

And yet, what weighs most negatively on the Mapuche movement, at the same time a source of pride for some, is its fragmentation when it comes to presenting its demands and fighting for them. Not having a single state form of representation for all Mapuche may have been successful as a societal survival strategy in the past, but today it does not play in favor in the macro-national policy. Each organization believes it has the right to reach its own agreements, although they all negotiate as if they were doing so on behalf of the "people" as a whole (language in their declarations). Thus, the nation's dominant elites, depending on their political color, look for their own Mapuche to negotiate with. Creating their "permitted Indian" that enables them to legitimize common integrationist-assimilationist indigenous policies, thereby circumventing the political demand for autonomy and self-government. And, incidentally, creating internal guerrillas within the Mapuche national society, which leads some to describe others as sell-outs and obtain in response the epithet of violent or terrorist. If efforts are not made in the future, perhaps more favorable, situation that is opening up in the sense of advancing towards a Mapuche national unity, it will be difficult to achieve this.

48 Araucania is not Nagorno-Karabakh with its own army and the backing of an Armenia or Russia that will ultimately rush to protect it if the danger becomes too evident.

cil to bring about the emergence of a united Mapuche nation, with the weight of having almost two million inhabitants, pushing for autonomy and self-government.

Conclusion

> A year ago the neighbors[49] self-convened of the neighborhood República Stgo in the Solidarity Museum Salvador Allende demanded a Popular Constituent Assembly, a Chile with more culture, a State guarantor of human rights and social, more democracy, more neighborhood organization, some bet on the end of neoliberal capitalism, the self-determination of the Mapuche nation people and for the full life against inequalities. One year after that Cabildo, these demands continue to enjoy good health in the Self-Convened Assembly of Barrio República, so basically we are celebrating our birthday today, October 24, and that is worth celebrating.

The above words were written by one of my former students in Chile[50] on Facebook and shared in circles of friends. Her words give an account of the motivations of the people of her neighborhood expressed in a self-con- vocated cabildo in the heat of the mobilizations in Chile. Their unfulfilled expectations, although "in good health", may never be fulfilled. At least, those that seem too high, such as the end of capitalism. Among other things, because the Chilean right-wing elites (sometimes nuanced with the consent of other more progressive elites), in spite of feeling the blow of the explosion, continue to be strong and they are still able to slow down processes, as we see them doing, with the participation of the PP.II. in the constituent assembly. And the fact is that these elites know and fear what the PP.II. will promote in this common place: the opening of the constitutional society to the political rights of the PP.II., which involves autonomy and self-government and the recognition of the plurinational character of the State.

The battle for that space continues at the closing of this work, and maybe it will have some kind of favorable outcome to what the Mapuche are asking for (being optimistic), but it will certainly not be the last battle. The Chilean right wing and the Chilean nationalist elites in general, regardless of the political color, have not made the way to political empowerment easy for the PP.II., neither yesterday nor today, and nothing indicates that they will not continue to do so tomorrow, because their nationalist ideology compels them to act politically in that way. If this right-wing does not change its way of thinking, it will decide to do so.

49 In this quote the author uses gender-inclusive language.
50 Ximena Sepúlveda. I give the name with your authorization.

mononic in terms of the nationalism it professes, and cold war in terms of seeing everything that threatens its privileges as communism; difficult to favor a coexistence between nations different from what is being experienced today. Ideological-cultural changes tend to be slower. And although today this right wing is in a precarious state after the results of the plebiscite, we do not know if after licking their wounds they will turn the page or they will take refuge doing more of the same (which is how we see their negotiators maneuvering on the issue of seats reserved for PP.II.).

But tomorrow is another day (then we will see if it was possible for the PP.II. to attend the constituent and help to twist history in their favor, even a little bit). Other obstacles will have to be overcome to continue advancing towards the goal of politically empowering the PPs within the Chilean constitutional society. It is worth taking a break, enjoy and savor for a moment the overcoming of one of the biggest obstacles on the way to the goal of empowering the PPs, as has been the removal of the Constitution from the dictator. The converging wills of citizens from all nations of the country made this moment of joy possible. And this is not only a great victory, it is also a great lesson to learn for the PPs, that is, to value what can be done together with the "others" in alliance.

The words of my former student radiate hope, passion and although a year after the triggering events: enthusiasm. They make us see, those of us who also belong to the Mapuche nation independent of our training as social scientists, that there are people among the "others", the state nation, who also want to see us free or as free as possible, just as some of us wish it for them. In the face of such demonstrations of good faith and empathy, it is extravagant to pose a struggle as if all the "others" were your enemy (at least in the Chilean constitutional context). It is necessary to get out of the bipolar visions of confrontation, to face united challenges both within the national group of belonging and at the level of all the nations in the State. Perhaps it is too early to speak of the refoundation of the State today, there is certainly still a long way to go, but there is no doubt that it is a desirable objective. It is necessary to move in that direction.

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PART II

Cracks: recovering what has been lost and reconstituting

The reconstitution of the assembly in Oxchuc, Chiapas. Elections by Indigenous Normative Systems (2015-2019)

Araceli Burguete Cal y Mayor

In the last decade, a new impulse in the struggles for indigenous self-government has emerged in Chiapas, aimed at the control of deciding on the electoral processes for the renewal of the municipal council, displacing political parties. This trend has been visible in the last four years (2015-2019), being the municipality of Oxchuc, which is being examined here, the first experience that managed to hold the election of its city council through the electoral process of Indigenous Normative Systems (NIS), also called Internal Normative Systems and electoral system of uses and customs, which I will use as synonyms.

After 1996, when the Zapatista Army of National Liberation (EZLN) and the federal and state governments[1] signed the so-called "San Andres Accords"[2] and, in the face of a dilatory government strategy that let the agreement die for several years, an imaginary was built from the indigenous territories around the notion that "autonomy" referred to this as those contentious manifestations that were exercised as *de facto* autonomies, self-proclaimed in fact. And the EZLN was recognized as the main protagonist of this claim (Mora, 2010). Self-determination and autonomy as constitutionally recognized rights were not present as a right that could be accessed. This lack of enforceability was, in part, the result of the omission of the EZLN as the main protagonist of this claim (Mora, 2010).

1 I write "state" with lower case, to refer to the state federative entity, in a federal organization regime, which is Mexico.

2 The San Andres Accords were the result of a dialogue process between the EZLN, the federal government and the state government in 1996 in San Andres Larrainzar, Chiapas.

governmental, since they had been ignored by State institutions,[3] despite the fact that this recognition had been incorporated in the Political Constitution of the United Mexican States since 2001 (González, 2002).

However, as of 2011 things began to change. In this year a new stage began, which consisted of the involvement of the courts and the Supreme Court of Justice to resolve issues of indigenous consultation in electoral matters, which has led to the judicialization of the right to self-government, as a result of the impact of international law, which has produced a normative transformation and an unprecedented activism of the courts (Sieder, 2011, Her- nández, 2016, Bustillos, 2017, Aragón, 2018, Alejos, 2018). In 2011, a constitutional reform on human rights opened the way for indigenous peoples to bring the autonomy claim to the judicial sphere, the case of the municipality of San Francisco Cherán is a pioneer in this breakthrough. Since then, local political actors have had new resources for the dispute for municipal political power, opening cracks in the monopoly of political parties, displacing them. At the same time, it seeks the revitalization of their Indigenous Normative Systems (NIS), strengthening the assembly as the electoral space (Martínez, 2013).[4] Successful results have been obtained from this strategy in the municipalities of Cherán, Michoacán, 2011 (Aragón, 2015, 2018), Ayutla de los Libres, Guerrero, 2018 (Gálvez & Fernández, n/d), and Oxchuc, Chiapas, 2019 (Méndez, 2020).

We are therefore facing a trend. The good results in other municipalities and, above all, a floor of rights to political autonomy that has been created by jurisprudential bodies, such as the Electoral Tribunal of the Judiciary of the Federation (TEPJF) (Alejos, 2018), has motivated political actors to fight for a change in the electoral regime, moving from elections through political parties to appointing their authority through their own normative system, or uses and customs, as a way to regain control in deciding on their local authority; decision that had been strongly infringed upon by the intervention of

3 I write "State" with a capital letter to refer to the national political organization.

4 Internal normative systems" are understood as the set of customary oral legal norms that indigenous peoples and communities recognize as valid and use to regulate their public acts and that their authorities apply to resolve their conflicts, including the internal rules for the renewal of the municipal authority (Martínez, 2013).

political parties. The judicial avenue as a space for the dispute of collective political rights in favor of indigenous peoples has shown its effectiveness.

The theory of the Political Opportunity Structure (POS), a category developed by McAdam et al. (2005), states that the fate of social movements depends on the opportunities that open up for them to change the institutional structure, in moments when power is sensitive to the demands of social actors, finding allies within the power structures. In the case studied here, the change of regime towards the NIS in the municipality of Oxchuc in 2019, occurred in a context of EOP, favored by the actions of court actors in an unprecedented activism (Aragón, 2018), at a time when a powerful social movement in the municipality disputed the State's control of its political decisions and found in the change of electoral regime a political opportunity.

Progress in the exercise of the right to indigenous political self-determination in the area of municipal self-government is nourished by other experiences. Since 1998, Oaxaca has recognized the coexistence of two electoral regimes for electing its city council: political parties and Internal Normative Systems (SNI) (Canedo, 2008), within a framework of broader recognition of indigenous rights (Hernández, 2016). Each of the 570 municipalities in that state has the prerogative to decide for one or the other regime, through internal self-consultation procedures. By 2019, 73% (417 municipalities) out of a total of 570, had decided for the regime of their uses and customs,[5] which has given rise to a great diversity of procedures for the renewal of office (Velásquez, 2001).

Due to its long trajectory and the growing number of municipalities organized under this regime, the TEPJF has received numerous challenges (JDCI: Juicio para la Protección de Derechos de los Derechos Políticos Electorales de la Ciu- dadanía en el Régimen de Sistemas Normativos Internos), issuing resolutions to them and an abundant jurisprudence (Bustillo, 2017), resulting in "a large bag of rights". On this basis, the Permanent Commission for the

5 Decree number 278 dated May 11, 1995, recognizes "the democratic traditions and practices of the indigenous populations that until now have been used in the renewal of their authorities, recognizing two regimes: that of political parties and that of "uses and customs" (IEEPCO, 2020).

Paz y Justicia Indígena de Oxchuc Chiapas (CPJIO, from here on) took advantage of this normative framework as a Political Opportunity Structure and appealed to the courts to demand the exercise of their autonomous right to renew their town council through procedures determined by their assembly, without the interference of political parties.

The jurisprudential criteria issued by the TEPJF sustained in a guaranteeing route, recognizes that the legal system of indigenous communities, as producers of law, is in permanent activity, being created, re-created and transformed (De la Mata, 2018). This recognition establishes that the general assembly is the highest hierarchical body of normative production (Jurisprudence 20/2014) (Protocol, 2017, p. 75). This capacity to produce norms has been called "power of normative self-determination". Thus, in case of conflicts, it is recognized that the assembly has the right to resolve through its own procedures.

Since 2014, jurisprudential criteria have produced changes in electoral law that point towards the configuration of a pluricultural State that recognizes that the Mexican legal system is integrated by indigenous law and statutory law. In this tenor, in Thesis LII/2016 it was established that:

> Indigenous law should not be considered as mere uses and customs, which, according to the system of sources of law, constitute a sub-daily and subordinate source, since they are two different legal systems that are in a relationship of coordination. Therefore, the Mexican legal system is inscribed in the legal pluralism, which considers that the law is integrated by the law formally legislated by the State, as well as by the indigenous law, generated by the indigenous peoples and the communities that integrate them. (Tesis LII/2016. Mexican legal system. Se integra por el derecho indígena y el derecho formalmente legislado) (Protocol, 2017, p. 33).

These theses and jurisprudences, issued as resolutions to the challenges have their origin and are mainly directed to grievances coming from the state of Oaxaca, but their scope is not limited to the municipalities of that entity, but they are a source for the litigation of other indigenous peoples in other latitudes, and also of the courts that have to resolve these matters, and as we can see, also in the case at hand, of the Local Public Electoral Bodies (OPLE). The process of the indigenous consultation and the election that took place in the municipality of Oxchuc, organized by the Institute of Elections and Participations (Instituto de Elecciones y Participa- tion).

The Chiapas State Citizen's Commission (IEPC) passed through the sieve of the jurisprudential criteria. And the Permanent Commission for Peace and Indigenous Justice of Oxchuc, Chiapas (CPJIO), as promoter of the autonomy claim, also appealed to them.

After a long battle in the streets and the courts, and in the context of an acute post-electoral conflict that led Oxchuc to a political crisis, the CPJIO finally obtained a ruling in its favor on June 28, 2017 (TEECH/ JDC/19/2017). The Court ordered the Institute of Elections and Citizen Participation of Chiapas (IEPC) to consult its population to decide on its preference for one or another electoral regime: that of political parties, or that of "usos y costumbres" (or Sistemas Normativos Indígenas, or Sistemas Nor- mativos Propios, used as synonyms). After the indigenous consultation process, which I am documenting in this contribution, on April 13, 2019, an assembly of 11,921 voters gathered in the esplanade of the central park, renewed their town council by means of the "show of hands" procedure. Previously, more than three hundred community assemblies had been held in all the localities of the municipality, contributing to the reconstitution of its assembly system through deliberative exercises in different areas. This innovation sought to overcome more than two decades of political conflict created by partisan disputes that had left a long aftermath of violence. Ten days after the election, the new Cabildo took office in a smooth process, which was celebrated as a popular celebration.

The question that guides this contribution is: How was it that Oxchuc, a municipality with a long history of internal conflict, atomized in eleven electoral assemblies organized by different political parties to elect their candidates, was able to reconstitute the "single community assembly", which elected its city council, through the Indigenous Normative System regime based on uses and customs? And, how did the CPJIO take advantage of the Political Opportunity Structure (EOP) created by the electoral jurisprudence issued by the TEPJF to transcend from a post-electoral conflict to an autonomic struggle?

What is presented here is the result of my attendance to different activities in the municipality, participant observation, interviews with actors and my participation as an electoral observer registered with the Institute of Elections and Citizen Participation (IEPC), as well as the analysis of documentary information. This contribution contains a description and a critical exercise to the

documented process. The text is structured in four sections. The first section documents the post-electoral conflict that erupted in 2015 and the progressive configuration of the CPJIO as an autonomous political subject; the second section describes the consultation process for the change of regime as well as the development of the renewal of the authority; the third section refers to the difficulties faced by the new town council after its implementation, and I conclude with a final reflection on the challenges of replicating this election model in other indigenous municipalities in the state.

The 2015 post-electoral conflict and the configuration of an autonomous political subject.

Since 1994, the indigenous municipality in Chiapas has undergone profound changes. After the armed uprising of the Zapatista Army of National Liberation (EZLN), the municipality is the place from which different subjects with differentiated political action have been constructed. Authors such as H. Zemel-man (2010) emphasize the importance of the subjectivity of the subject as the potential for change that they generate and develop, in the context of their own history. In this sense, social actors in indigenous municipalities are subjects constituted in their own historicity, and in turn are constituents of new realities, which they create and are capable of transforming, this potentiality being one of the features of the subject. After 2016 the Oxchuc dissidence was configuring an emancipatory subject, which made it possible to modify the instituted social order to give way to new forms of social organization and future horizons that developed in an autonomous grammar, highlighting the emancipatory potential of law (Aragón, 2018).

At the turn of the 21st century, a significant number of citizens in the Oxchuc municipality were disappointed with the electoral system by which the town council was elected in their municipality. For several years the Institutional Revolutionary Party (PRI) prevented any other party option from winning an election. In the indigenous municipalities of the Chiapas highlands, a form of political organization operated, which J. Rus (1995) named "Institutional Revolutionary Community", which was a parody of the dominant single-party political system in Mexico, characterized by corporatism, coercion and vote buying. Thus, when the Zapatista Army of National Liberation (EZLN) called to arms to oppose that political system, a group of di-

sidents in Oxchuc, such as Juan Encinos, joined as sympathizers of the rebel army. But the local PRI, structured as a cacicazgo, did not allow them to become an opposition political force, repressed them severely and their main leaders were internally displaced. Some communities remained as rebel adherents, with a very low profile, with no impact on local politics. Until all that pent-up frustration suddenly manifested itself in a post-electoral conflict in 2015.

The 2015-2018 triennium was a particularly intense period in the political struggle in the municipality of Oxchuc. It began with an internal political dispute in the Institutional Revolutionary Party (PRI) (February, 2015) against the procedure that named María Gloria Sánchez Gómez as its candidate for the presidency of that municipality, who would run for the second time (she had already been president in 2005-2007), succeeding her husband (Norberto Sántiz López, who in turn had been president in 2012-2015, and 2002-2004, and federal deputy 1997-2000). In three lustrums this couple concentrated power obtained from their militancy in the PRI. Their long tenure in power allowed them to configure a cacicazgo, characterized by opacity in the management of public resources and violence against their adversaries (Burguete, 2020a).

The conflict within the PRI at the electoral juncture intensified when a month before the election (July 19, 2015), the candidate María Gloria Sánchez left the PRI and ran for the Green Ecologist Party of Mexico (PVEM), which was then the ruling party in the state. As on previous occasions, the electoral results again favored the candidate of the cacicazgo, who had resorted to vote buying and intimidation, which were frequent political practices (Méndez, 2020).

Dissatisfied, the opponents resorted to protest. A few days after the president took office, party militants occupied the municipal palace building. They set up barricades and blocked the road. Until that moment, the opponents were disarticulated, they had contested under the acronyms of eleven political parties, but the rejection of the president and the defense of the municipal building to prevent her from taking office, unified them. The population declared itself in resistance and confronted the police who tried to evict them. In this spontaneous articulation, an intense collective action of blockades, house and vehicle fires, and road takeovers led to the government's decision to evict them.

The state government pressured the elected municipal president to request an "indefinite leave of absence", which she obtained on February 11, 2016.

After this decision, it was up to the Congress to decide who would replace him, selecting him from a member of the Cabildo, as established by the municipal law. But the opponents did not allow it. On February 16, 2016, they gathered in the esplanade of the central park, this collective was constituted in an assembly, which made the decision to institute a cabildo by self-proclamation, which did not recognize the elected president. The assembly of dissidents named Oscar Gómez López as interim municipal president, and added Juan Encinos and Ovidio López Sántiz as members of the self-proclaimed Cabildo, people who at different times had been close adherents of the National Liberation Army (EZLN). To support their decision, they mobilized to San Cristóbal de Las Casas (50 kilometers away), taking advantage of the media situation at that time, due to the arrival of Pope Francis to the city, just at that time. Other contentious actions such as the closing of the tourist highway leading from San Cristóbal de Las Casas to the archaeological zone of Palenque, detaining foreign tourists, put things in their favor. Faced with these pressures, the state government gave in. On March 10, 2016, the State Congress issued Decree 178, which ratified the Cabildo that the assembly had elected a month earlier.

But María Gloria Sánchez Gómez and her council were not satisfied with the congressional decision. The president litigated in court. The appeal (TEPJF SUP-JDC-1756/2016) was resolved on August 31, 2016, and determined that the evidence provided by the complainant evidenced that she was forced to sign the letter of leave of absence from office and, due to the manner in which it occurred, lacked constitutional and legal justification, so the TEPJF ordered the State Congress to reinstate her in her functions. In these same days another woman, Rosa Pérez Pérez (2015-2018), elected president in the neighboring Tsotsil municipality of Chenalhó, had also been forced to request a leave of absence under similar conditions of violence and pressure to resign (Eje Central, 2016). The mayor was also dissatisfied and went to court to denounce gender-based political violence. Just like the president of Oxchuc, Rosa Pérez obtained a ruling in her favor (TEPJF, SUP-JDC-1654/2016).

However, in the case of Oxchuc, the assembly and the CPJIO rejected the court ruling and refused to return the municipal building. In support of President Maria Gloria Sanchez, feminist women demonstrated in various parts of the state.

of Mexico to support her and demand the reinstatement of her position. The "Red de Redes por la Paridad Efectiva" (Network of Networks for Effective Parity) integrated by women from 15 states of the country, launched a Change.org campaign in her favor, which achieved 24,882 adhesions (Cintalapanecos. com, 2018). Feminist support for the president brought into view the confrontation of two human rights paradigms, that of the right of an indigenous people to self-determination to decide on their own government, which had been elected by the popular assembly, and that of the human rights of indigenous women, including the right to be elected and to hold office.

Legal anthropology has emphasized the relevance of approaching the study of diverse realities through intercultural dialogues, calling attention not to lose sight of the fact that the human rights discourse becomes a colonial and globalizing ideology of dominant sectors, while at the same time stressing the relevance of recognizing power inequalities in the reflection (Sousa Santos, 1998; Sierra, 2004, 2009; Sieder, 2010). This analysis does not ignore the recurrent tension between both paradigms, since the expulsion from office of elected women presidents has been a frequent practice in the indigenous municipalities of the Chiapas highlands in the last five years, when women have gained access to these spaces due to gender parity policies (Burguete, 2020b).

In the session that took place in the electoral tribunal that discussed the case of the president of Oxchuc, and that determined the restitution of the municipal powers in her favor, this decision did not enjoy unanimity. In the sentence SUP-JDC-1756/2016, the magistrate Manuel González Oropeza presented a particular vote, which posited that the tensions experienced in Oxchuc were situated in the terrain of a conflict between normative systems. And that the people of Oxchuc had the right to self-government in the framework of the exercise of the right to self-determination of indigenous peoples, so that the community assembly should decide on the regime through which they wanted to elect their authorities, whether by political parties or by their own normative systems, and urged the governmental authorities to immediately convene a consultation, before proceeding to the reinstatement of the president who had been elected through the political party regime.

This opinion of Justice Gonzalez Oropeza opened a window of opportunity in a Political Opportunity Structure, initially not foreseen. The CPJIO welcomed this proposal and directed its strategy towards the demand for a change of regime towards "elections by custom and custom" and the elimination of political parties.

The CPJIO then proceeded to litigate in court its autonomous right to self-government by appealing to the strong "bag of rights" that had been generated from the courts. The CPJIO then proceeded to litigate in the courts its autonomous right to self-government by appealing to the solid "bag of rights" that had been generated from the courts. After a long journey, on June 28, 2017, the Electoral Tribunal of the State of Chiapas issued judgment TEECH/JDC/19/2017, ordering the IEPC to "determine the viability of the implementation of the uses and customs of said community" through a cultural opinion (expert or anthropological opinion), to verify "the historical existence of an internal normative system in accordance with the constitutional framework of human rights...". And, in addition, it had to document "the situation of social stability in the municipality", to then proceed to the indigenous consultation under the standards of Convention 169 of the International Labor Organization (ILO), so that the population could decide on the electoral system by which they preferred to elect their municipal authority.

Despite the fact that this sentence accepted the demand made by the CPJIO, however, the context of conflict at ground level in the municipal territory did not cease, hindering the possibility of immediate consultation. Polarization was growing in a scenario of new elections (2018), which were already approaching. Finally, an unfortunate violent event defined the confrontation. On January 24, 2018, members of the board of the Permanent Committee for Peace and Indigenous Justice of Oxchuc (CPJIO) suffered an armed attack in which four people lost their lives, among them Ovidio López Sántiz, a member of the self-proclaimed Cabildo, while another ten community members were injured. President Ma- ría Gloria Sánchez was identified as the intellectual author of these acts and the members of her town council as the material authors and probable perpetrators of various crimes, which led to her being stripped of her immunity. The State Congress then proceeded to integrate a Municipal Council, composed of the main leaders of the CPJIO. Oscar Gómez remained as the council president, ratifying the decision of the February 2016 assembly.

From this point on, a new chapter opened for the autonomous subject that had been in the making and that now had things in its favor. Other circumstantial events worked in favor of the CPJIO. Polarization waned when acto- res of the new federal government headed by Andrés Manuel López Obrador, who had been elected in July 2018, ascended to power. Unlike the previous one,

the new head of the executive branch in the state, Rutilio Escandón, elected in 2018, did not oppose the renewal of the Oxchuc town council through the Internal Normative System (SNI) regime, but rather favored it with various gestures, which gave his approval. Likewise, the new officials of the National Institute of Indigenous Peoples (INPI), at the highest level, such as the director Adelfo Regino, and his team of lawyers, visited Oxchuc to give their support to an indigenous people that was walking along the autonomous path, in the exercise of their right to self-government.

In this new scenario, the IEPC, especially the Permanent Commission for Citizen Participation chaired by Councilor Sofía Sánchez, was then engaged in preparing and deploying the consultation process, holding more than three centenars of community assemblies, thus contributing to flattening the path towards the single community general assembly, which the IEPC itself had determined would be the legal and legitimate space to elect the new town council. By marking this route, the IEPC was adhering to the jurisprudential criteria on the relevance of the assembly in the recognition of the Indigenous Normative Systems (Sánchez, 2020). The Superior Chamber of the TEPJF has determined that the indigenous consultation for the change of regime must be carried out through community assemblies (SUP-REC-193/2016 and SUP-JDC-1740/2012). It is noteworthy that Thesis XL/2011.9 of March 2011, states:

> INDIGENOUS COMMUNITIES. INTEGRATION OF THE COMMUNITY GENERAL ASSEMBLY (OAXACA LEGISLATION).
>
> The phrase community general assembly refers to the expression of the majority will, which can be obtained in an assembly or with the sum of those carried out in each of the localities, since in both cases it implies the form of joint decisions, in such a way that the will to integrate the body in charge of appointing the municipal authority can be validly issued by the community general assembly of the municipality with the participation of its members, or based on the consultations carried out in each of the localities that make up the municipality. (Protocol, 2017, p. 188)

Although this thesis was issued to resolve a specific case in Oaxaca, nevertheless, the IEPC interpreted this jurisprudential criterion and proposed that a general assembly should elect the new town council after holding assemblies in all the communities (localities) of the municipality. Although such a decision was in favor of the recognition of the human rights of the indigenous people, the IEPC interpreted this jurisprudential criterion as a

However, achieving this in Oxchuc, a municipality with 48,126 inhabitants (99.5% Tseltal speakers) (CDI, 2015), distributed in 130 communities (unlike in Oaxaca, where the number is reduced),[6] was a challenge.[7] In addition, Oxchuc faced the situation of atomization of the assembly, since eleven parties had contested in 2015, each of them having constituted their own electoral assembly, so the other challenge consisted in the reconstitution of the municipal general assembly to be able to carry out the election, if so decided by the population after the consultation.

The IEPC had the responsibility to comply with the sentence of a court, so in compliance with it, it proposed to do so guided by the jurisprudential criteria that were the only references available to it, since the entity lacked a norm regulating it.

The reconstitution of the assembly in the process of indigenous consultation for the electoral regime change

On June 28, 2017, the State Electoral Tribunal of the State of Chiapas (TEECH) issued the sentence TEECH/JDC/19/2017 that ordered the IEPC to carry out a series of actions leading to the consultation for Oxchuc to decide on its election regime. It would begin with a cultural expertise or opinion documenting the electoral practices in that municipality, the situation of "social stability in the municipality," to then proceed to the indigenous consultation under the standards of Convention 169 of the International Labor Organization (ILO). In order to comply with these mandates, the IEPC had to begin with a common understanding of what should be understood by "Indigenous Normative Systems", from the legal framework established by the jurisprudential bodies, a notion that was new to the inhabitants of the municipality, since the usual concept was that of uses and customs. It was also necessary to listen to the voices of those who were opposed to the concept of "Indigenous Normative Systems".

6 Of the 570 municipalities in Oaxaca, 149 are made up of a single municipality with the category of head town, with no dependent localities, while the remaining 421 municipalities may have from one to 25 dependent agencies (Velasco, 2020). These figures are minimal compared to the average for Chiapas.

7 There are currently 420 municipalities in the country that elect their town councils through NIS, 417 of which are Oaxacan and the rest, three, are located in the states of Michoacán (Cherán), Guerrero (Ayutla de los Libres) and Chiapas (Oxchuc). In Mexico there are 2458 municipalities and 16 mayoralties, the latter in Mexico City (2015), which means that 17%

of the national total elect their authorities through their own normative systems.

change of regime. The first to express their opposition were the militants of the ten or so political parties. Other citizens also doubted, for other reasons, some related it to the return of the main elders as authorities, figures associated with ancestral ceremonial rituals, usually called "traditional religion", which was undesirable in a municipality where about 50% of its population professes evangelical Christian cults (Bastian, n.d.).

On the other hand, women's associations also expressed their rejection, since they doubted about the integration of the female gender within the city council, as stated by the State Front of Indigenous Women of Chiapas, in a meeting held on January 24, 2019 with IEPC councilors (Memoria, 2019b, p. 75). Other citizens were not in favor of the return of the assembly voting procedure, as the partisanized assembly had been the site of legitimized exclusion. To speak out in full view of others, without anonymity, was seen as a risk. Showing dissent in an assembly was punished. The show of hands had become a means of political control.[8]

The first task of the IECP was then to disseminate information about what was being understood by Indigenous Normative Systems at the same time that the guidelines for the consultation were being elaborated. From October 9 to 15, the IEPC, together with the council president, members of the council and representatives of the CPJIO, established "work tables" to clarify doubts and advance in the planning of the work. At the work tables, information on the number of communities in the municipality was collated, the electoral roll was validated and a cartography was drawn up to design the routes to access them. In addition, in these spaces, proposals were received regarding the people who would be hired as route guides and Tseltal-Spanish translators. All of this was agreed upon by the actors participating in the roundtables, whose integration was plural, including dissidents to ensure that their concerns were heard.

The planning identified that there were 130 communities distributed throughout the municipal territory and recognized that each one of them had its own community assembly, its own body of authorities and its own forms of organization.

8 The exercises of power that unfold in community assemblies have been studied in other contexts, as documented by María Teresa Sierra (1987) in the Mezquital Valley, in the state of Hidalgo.

ganization. The agreement was consolidated that each community assembly had the prerogative to decide on the procedure by which it would issue its adhesion (or rejection) to the change of regime. And that such decision would be respected, as well as the electoral procedure, either by show of hands or by ballot box and ballot. The latter was one of the most difficult agreements to reach, since the CPJIO defended that the "true usos y costumbres" was the plenary assembly by show of hands and not the ballot box and ballot, which was related as a practice of the political party system. The IEPC did not accept this conditioning.

To argue this, the electoral body resorted to the anthropological report prepared by the National Institute of Anthropology and History (Meg-chun et al., 2018), which, appealing to an interlegality approach, recognized that in the municipality of Oxchuc, "the electoral custom" included both practices, and that they were not opposed, so limiting and imposing on the communities only one procedure, that of a show of hands, went against the autonomous rights of the communities. The IEPC was insistent that the development of the consultation should be carried out in compliance with democratic values and human rights, in a guaranteeing and intercultural perspective (Chacón, 2020). In other words, the consultation should eradicate the vices of partisan assemblies that in the last two decades had become ingrained in the local political culture.

In moments of tension, the IEPC appealed to jurisprudential criteria, for example, to jurisprudence 37/2016 issued by the Superior Chamber of the Electoral Tribunal of the Judiciary of the Federation, which is entitled: "INDIGENOUS CO- MUNITIES. THE PRINCIPLE OF MAXIMIZATION OF AU- TONOMY IMPLIES THE SAFEGUARDING AND PROTECTION OF THE INTERNAL NORMATIVE SYSTEM"[9] which states:

> The right to self-determination of indigenous peoples and communities must be recognized, seeking its maximum protection and permanence. In this sense, within the framework of the application of indigenous individual and collective rights, the jurisdictional bodies must give priority to the principle of maximizing autonomy, safeguarding and protecting the internal normative system that governs each people or community, provided that human rights are respected, which entails both the possibility of establishing their own forms of organization, as well as regulating them, since both aspects constitute the cornerstone of indigenous self-government.

9 Capital letters in the original. Jurisprudence 37/2016. Retrieved from: https://bit.ly/32sK4h0

The working groups agreed on the universality of suffrage, without excluding anyone on the basis of religious, political, ideological or other differences. The inclusion of women and respect for their right to vote and to be elected was also discussed, this being another point of tension, and with difficulties in reaching consensus. In the communities of Oxchuc, land is an asset in the hands of men, women have no agrarian rights, and therefore lack the status of "cooperantes" (citizens with rights and obligations). On this point, the authorities and political leaders resisted women having equal political and electoral rights. Finally, in the consultation guidelines it was established that women would be able to vote and be elected and would participate in all the commissions created in the consultation process, under conditions of parity. It was also stated that the municipal council should be made up of half men and half women. However, such acceptance was pragmatic; in fact, the incorporation of women was a simulation. The pairs, man-woman, were spouses. In this way "parity" was complied with, but in simulation (Burguete, 2019a).

Another relevant aspect that was incorporated in the guidelines was the certainty of the election. It was established that the rules, agreements and procedures would be recorded in minutes, and that these would be validated by the signatures of all participants. But given the context of conflict, disagreement frequently broke out, so it was necessary to create a "conciliation commission" to resolve differences or disagreements and avoid any possibility of affecting rights. For this commission to function, the IEPC provided training in mediation, seeking that respect for human rights would be the route to internal pacification (Chacón, 2020; Jiménez & Ocampo, 2019). Finally, the "lineamientos" were approved on October 25, 2018 (IEPC/CG-A/216/2018).

After defining the election rules, the next step was to implement the consultation, which would be carried out through assemblies. It began with the installation of six "informative headquarters assemblies", which were held in key locations, in towns that were micro-regional capitals. The purpose was to bring together the authorities of the communities in their area of influence and to inform them of the guidelines and plan the 130 "community consultation assemblies". In each community, a committee made up of traditional authorities, agents and municipal committees was in charge of preparing the consultation. In order to ga-

To ensure that all communities participated, it was necessary for the commission in charge of the consultation, including IEPC officials, to visit a community on more than two occasions. It was necessary to get as many communities as possible to participate. It was agreed that it was the prerogative of the community to decide which method of election they would use, whether by show of hands or by ballot box and ballot. The final result was that 73 communities decided by the "show of hands" procedure, and 47 decided by the ballot box and ballot. The results of the voting in each assembly were recorded in minutes that were then notarized (Memoria, 2019b).

At the conclusion of the entire sweep of the consultation, finally on January 05, 2019, the IEPC and the local electoral authorities convened to hold the "Plenary Assembly of Results on the Indigenous Consultation in the municipality of Oxchuc" (IEPC, 2019a). Community representatives (one man and one woman, who had been elected in parity) were selected by their community assembly, to present the results. Each community pronouncement, in favor or against the change of regime, was added up on the spot in full view of everyone, on a giant screen that made the adhesions transparent. The final result was that 59.18% of the total voted in favor of electing their town council through Indigenous Normative Systems, while 38.40% voted in favor of political parties, out of a total of 116 communities that attended the plenary results assembly. The missing percentage, 2.42%, refers to consultation assemblies that were not held. The difference obtained in their favor was 20.78 points, which, although small, nevertheless, given the improbable results, the achievement was significant.

At the end of the consultation phase, the election followed. The local actors integrated the "debate table" as an electoral body to build a proposal on the electoral rules. This was not easy to achieve. The debate continued to be whether the election would be conducted by a show of hands or by ballot box and ballot paper. The decision taken was that the assembly would be held on April 13, in an assembly that would elect "by show of hands". This was a major challenge to achieve in an assembly that was expected to concentrate more than ten thousand voters. Another agreement was that the municipal president would be a man, and the síndica a woman, and then aldermen alternating by gender, to integrate a parity city council. The call of April 13, 2019 called to gather in the esplanade of the central park. The electors were appointed in each community, in parity.

Once in the assembly, having guaranteed a quorum of 50% plus one of the list of registered voters, the election was held by a show of hands. The official number of electors was 11,921, from 115 localities (Hernández, 2020, p.131). On this occasion, no planillas were elected, which competed among themselves (as occurs in the political party regime), but rather voting in favor of individuals, who would occupy the positions.

The climate prior to the election was tense and there was fear of conflict erupting. The IEPC called on the population to "conduct themselves in peace and civility during the election of their municipal authorities". Fears were more than overcome, the assembly was experienced as a great popular celebration. Adelfo Regino, head of the National Institute of Indigenous Peoples (INPI), attended as an observer, "in representation of President Andrés Manuel López Obrador" (INPI, 2019). At the conclusion, the state government secretary, Ismael Brito Mazariegos, expressed his celebration of the civility with which the election was conducted (Ronda Política, 2019). The Bishop of the Diocese of San Cristóbal (Gómez, 2019), and the deputy president of the State Congress (3Minutos, 2019) pronounced themselves in the same terms.

A Cabildo composed of 15 people was elected. The position of president was held by Alfredo Sántiz Gómez, a young professor, and Rufina Gómez López, owner trustee. In addition, other women occupied the position of alternate trustee and three regidurias as owners and three alternate regidurias. Of the total number of city council members, 7 were men and 8 were women. Ten days after the election, the inauguration took place. In fact, the assembly was held without conflict, although with dissidence, since one of the candidates for municipal president, Professor Hugo Sántiz Gómez, who came in second place, was dissatisfied with the results, leaving the podium after the names of the winners were made official.

The election in Oxchuc was a statewide political event. Numerous observers and journalists, some of them foreign, gathered on the day of the vote. Reaching the integration of a single electoral assembly and holding the election without conflict was possible because during the consultation process numerous deliberative exercise devices were activated, which built consensus, reconstituting the community assembly system. After the result of Oxchuc, the election through Indigenous Normative Systems was perceived as a new paradigm for the pacification of the indigenous municipalities of the highlands.

chiapaneco, who often live burdened by internal conflict as a result of partisan political struggle (Burguete, 2019b).

A city hall in the middle of a storm

But these good results were quickly tarnished. Barely four months after the municipal election, the conflict erupted again, with the same belligerence they displayed in 2016. In this section I do not have as my subject matter the analysis of the functioning or management of the municipal government that began its functions on April 23, 2019, but rather I intend to draw attention to the difficulties it has faced as a result of decisions made in the electoral process.

Since the beginning of its work, the city council has sailed like a small boat on a rough sea in the middle of a storm. A first difficulty it has faced has been the lack of cohesion as a government team. Given that in the electoral competition there were no contending lists, united by affinity, but rather people selected by their communities and voted individually in the assembly, the result was that those who made up the Cabildo had not defined a prior common plan of action that would give them governmental direction. This problem was aggravated by the fact that the gender parity among the members of the town council, as required by law, was fulfilled by incorporating women with peasant leadership traits, with little schooling, who would face challenges in the exercise of their office, even when they had a history of community work.[10] It can be said that the young president-elect arrived alone, without a government team to support him in his decisions. This lack of cohesion has also manifested itself in the dispute among its members to decide and distribute the benefits of municipal funds, favoring the adherents they represent.

10 Oxchuc is a municipality that has long had a significant number of professional women, especially primary school teachers. More recently they have been trained as accountants or lawyers. Some of them have graduated from the Intercultural Indigenous University, which since August 2009 has a campus in the head of this municipality, where three degrees are being studied: Sustainable Development, Language and Culture and Intercultural Law. But none of them was selected to integrate the new town council, since the criteria for the distribution of candidacies was based on the micro-regional representation of the regions that had participated in the political struggle process.

In the local corporate political culture established by the PRI, which reproduced the cacicazgo that governed the municipality, voters adhere to candidacies and/or political parties expecting direct benefits, either as individuals or as a community. In the political history of the country in the last fifty years the municipal pre-supposed public was used for corporate purposes, without surveillance from the state government agencies, since there was a tacit agreement that social policy was used for electoral purposes. For this reason, conflict frequently erupted as a means of pressure to obtain benefits. In this sense, the vote given in favor of the CPJIO, and the adhesion to the electoral regime change it achieved, also contained this expectation, and the militancy expected immediate benefits, and when they did not obtain them, some of them have become opponents. The dispute for access to the money of municipal resources has weakened the management of the authority. Municipal planning is impeded because the inhabitants of the communities demand the distribution of money in cash because, they argue, "this is the way of customs and traditions".

To press for this, a significant number of residents have taken to the streets and blocked the municipal building, among other acts of protest, replicating the same belligerence as they did in 2016 when they pushed for the resignation of President Maria Gloria Sanchez. Opposition erupted very early and has remained throughout 2020 (Luna, 2020). To resolve these conflicts, actors external to the municipality, operators from the federal and state governments and the state Congress, have had to intervene as mediators, so that the municipality has lost autonomy in its governance.[11]

11 For example, on February 17, 2020, Congresswoman Patricia Mass Lazos of the local Congress was present in Oxchuc to mediate a conflict of this nature. A media outlet made the following summary of the Congresswoman's intervention: "Although the resources destined for the Planning Committee for Municipal Development (Copladem) must be focused on public works, in the municipality of Oxchuc this money will [have to] be distributed in the delivery of sheets, coffee pots and tinacos so that the protests of the population have a peaceful solution, Patricia Mass Lazos, vice-president of the Board of Directors of the local Congress, pointed out. This money, sent by the Federation, has a well-defined focus, but eight thousand inhabitants are asking for it to be delivered based on 'uses and customs' (...) The social disturbance was generated months after the president councilman (sic) did not fulfill his promises and only a reduced percentage of communities received the support, which alerted the rest of the population. (...) He added that the population does not want Sántiz Gómez to leave; the only thing they demand is that he deliver Copladem's support based on the uses and customs." (Abosaid, 2020). "Copladem will be distributed with sheets and tinacos" (tinacos), February 17, 2020).

Other problems that have arisen derive from the doubt that was sown about who was in fact the winner of the electoral assembly. When the "debate table" decided that the method of election in an assembly of eleven thousand participants would be by a show of hands "because that is the way of the usos y costumbres", it faced this risk, but decided to do so, because with this it would have the certainty of control of the result. In the post-electoral conflict that crosses Oxchuc, the dissident groups are led by Professor Hugo Gómez Sántiz, the candidate who came in second place in the election of the general electoral assembly, but who did not accept this result. In his opinion, hundreds of raised hands voted in his favor, and not in favor of Professor Alfredo Sántiz Gómez (they are not relatives, but rather lineage surnames), who was declared the winner by the "debate table", which was the electoral body that qualified the elections.

Professor Hugo may be right, in reality either one could have won. I participated as an election observer at the caucus, and the number of hands raised and the shouts heard in support of each could be seen to be equal for both candidates. It could have been a tie. Alfredo Sántiz Gómez (current municipal president) is identified as a political actor close to the Permanent Commission for Peace and Indigenous Justice of Oxchuc Chiapas (CPJIO), but not Hugo Gómez Sántiz, who has been linked to former president María Gloria Sánchez.

Non-conformity has difficulties to be processed through its own institutions. The general assembly has fractured again and in its design and membership, the city council did not include all the political plurality that made the electoral regime change possible. In the municipal government there is a lack of counterparts. The city council that was integrated did not open spaces to add the losers. In Mexico, municipal law provides that municipal councils elected through the political party electoral system incorporate proportional representation councilors, also called "plurinominal councilors", which are from three to five persons (depending on the population of the municipality), who join as councilors, without having been part of the elected council. Each plurinominal or proportional representation alderman is a person appointed by the losing political party. It may be the candidate for president, who did not win the election, or any other person designated by the losing political party. This figure of

Proportional representation was created to achieve political balance in a municipality, and thus incorporate representatives of political parties that had been defeated into the spaces of municipal power and decision-making.[12] But the municipality of usos y costumbres elected on April 13 in Oxchuc did not adopt this figure.

Nor did it add plurality in any other way, although there were other options. For example, the municipalities of Cherán and Ayutla de los Libres, when modifying the electoral regime towards the indigenous normative system, changed the design of their town councils, turning them into government councils, with council figures (extended town councils) and horizontal (Aragón, 2018,[13] Gálvez & Fernández, s/f[14]). But in Oxchuc this step was not taken. In a conversation I had with the community lawyer Gabriel Méndez (March 13, 2019), who was one of the main ideologues of the process documented, he commented to me that this change would not be made in Oxchuc for two reasons. First, because it would give arguments to their opponents since a council council-council design was not part of the usos y costumbres, and second because this municipal design was uncertain, since it is not recognized in federal and state legislation and he feared that it could have repercussions in terms of procedures for accessing municipal funding, as Cherán and Ayutla had initially experienced. Perhaps

12 The figure of proportional representation also exists in deputies, both local and federal. And it has the same purpose of giving voice to dissidence and seeking balances of power (Espinosa, 2012).

13 In Cherán the municipal authority is the Consejo Mayor de Gobierno Comunal, which is composed of twelve members known as K'éris, which are lords of respect in the P'urhépecha language), elected by community assembly and represent the four barrios (three are elected from each barrio). The Major Council exercises the mandate of the Communal Assembly and must orient, govern, oversee and evaluate the work of the six Specialized Operative Councils.

14 In the election of Ayutla de los Libres, in the state of Guerrero, on July 15, 2018, the municipal assembly of representatives was held, attended by 270 proprietary representatives and 260 alternate representatives. It was determined that the municipal governing body would be the Community Municipal Council, made up of the representatives of the 140 localities of the municipality of Ayutla, but represented by the three coordinators and alternates of the Mixteca, Mestiza and Tlapaneca zones. Therefore, it was decided, by majority vote, that the municipal government will be in the hands of a Community Municipal Council, represented by three coordinators and three substitutes from each ethnic group: Tu' un savi, Mestiza and Me' phaa, while the other representatives -that is, 554- will be members of the aforementioned Council, maintaining their appointment as representatives in order to have an assembly as the highest decision-making body (Gálvez & Fernández, n.d.). (Gálvez &

Fernández, n.d.).

In the 2021 elections, the next step will be to redesign the city council to include dissidents as part of the autonomous construction of the indigenous self-government, which in this first stage has been so eventful and seems to be a failed process.

This is not the first time that an autonomy struggle has been frustrated in an indigenous municipality in the Chiapas highlands because of the local political culture. C. Renard (2005) documented a process of "de facto autonomy" in the Tseltal municipality of Amatenango del Valle in the Highlands region of the state, of a group that declared itself Zapatista at the time of the armed uprising, but soon its political practices would reproduce those inherited by the culture of the "institutional revolutionary community" (PRI), although they continued to assume themselves as "autonomous", in a sort of gatopardism, dissolving, in the end, the transforming spirit of the experience. In this sense, Cruz and Long (2020), who analyzed the experience of the indigenous consultation in Oxchuc, referred to the practices of intolerance and exclusion resorted to by the leaders who led the process as "gatopardismo". Recondo (2007) had already observed gatopardismo in Oaxaca in the indigenous municipalities in the middle of the first decade of the 21st century.

In this general framework we can conclude that the features of the local political culture can be limiting and constraining for social transformations (Gutiérrez et al., 2015), as has occurred in Oxchuc, whose process has been marred by a recidivist clientelist political culture, which has slowed down the proposed autonomic impulses. Thus, the results or impact of the electoral regime change will be differentiated depending on the historical and cultural particularity of the subject, so that the transformative effects between Cherán, Ayutla and Oxchuc are different depending on the political culture of the municipality in question.

In the same way, it is not possible to conclude conclusively about the role of the courts. On the one hand, their excessive intervention in what has been called "the judicialization of politics" is questioned (Sieder et. al., 2012), 2012), but while such an issue is true, nevertheless in contexts such as the Mexican context when the executive and legislative powers act against the rights of indigenous peoples, adhering in favor of neoliberal policies, the behavior of the electoral courts, in the case documented here, Aragón's (2018) proposal to take the law as a tool for emancipation, pa- rece be closer to the Chiapas and Mexican reality. The electoral tribunals

have created a Political Opportunity Structure in favor of the indigenous municipalities to emancipate themselves from the political parties, at least until now.

Challenges of a choice model through SNI in Chiapas. As a final reflection

The difficulty for peace in Oxchuc is the difficult coexistence between the various factions that fight for power, some of them have proposed the return to the political party system, but they will have little success. Jurisprudential criteria do not favor them, the TEPJF has given the municipal assemblies of representatives, who have already lived an experience of consultation, the prerogative to elect their authorities by means of NIS, and not the electoral institution (IEPC). This was determined by the TEPJF when resolving a challenge by citizens of the municipality of Ayutla de los Libres Guerrero, who demanded to return to the political party system, after having held elections through SNI on July 15, 2018. In response to the petition of those citizens the Mexico City Regional Chamber of the Electoral Tribunal of the Judiciary of the Federation (TEPJF) reaffirmed that the "Municipal Assembly of Representatives of Ayutla de los Libres", is the authorized customary authority, because it was so "recognized when the Municipal Council was established once the election was held through the internal normative system, in exercise of the powers that indigenous peoples and communities have." (SRCDMX, 2020). With these measures, the electoral bodies move from the stage of protectionism to the minimum intervention and maximization of the autonomy of indigenous peoples (De la Mata, 2018).

Interpreting these jurisprudential criteria, it can be affirmed, then, that the election by Indigenous Normative Systems in Oxchuc is already a decision taken by a community assembly, and is irreversible. Therefore, the challenge now is for the Oxchuquenses to proceed in 2021 to elect their authorities through their own normative systems, overcoming the errors committed in the 2019 process, eradicating the political culture inherited from the PRI, eradicating the partisan assemblies, which persist even though there are no longer political parties.

It is important to mention that the autonomy exercise that the Tseltal people of Oxchuc have undergone has been relevant for indigenous social organizations interested in the struggles for indigenous autonomy, who followed it with interest.

and were coadjutants, such as the National Indigenous Network (RNI), and it was hoped that this experience could trigger other processes and be replicated in other municipalities in Chiapas. And so it happened. The organization "Comisión del Gobierno Comunita- rio para Chilón y Sitalá" (Community Government Commission for Chilón and Sitalá) and its team of lawyers, took their request to the courts to obtain a ruling in their favor, to elect their town councils by means of their Internal Normative Systems, dispensing with the political parties. The TEECH responded and issued sentences in their favor in June 2018 (SX-JDC-222/2018 and SX-JDC-223/2018 accumulated and TEECH/JDC/154/2018),
instructing the IEPC to carry out the anthropological research and proceed with the consultation to inquire among its citizens about their decision to change the electoral regime.

In order to comply with the rulings, in August 2019 the IEPC decided to initiate the consultation in the municipality of Chilón. The first action was to conduct the anthropological assessment, then the IEPC was to comply with the information and planning stages of the consultation with all local stakeholders. The consultation would consist of holding two assemblies in each of the localities (communities) of the municipality and holding the "assembly of results" recovering the votes of each community assembly, and if the pronouncement was in favor of the change of regime towards indigenous normative systems, proceed to the election without political parties. This action plan replicated the methodology developed in Oxchuc.

However, conditions were not the same. First, there was the challenge of population, geography and orography. In 2015, Chilón, a Tseltal municipality with 98% of its population being indigenous, registered 127,914 inhabitants, three times more than Oxchuc, in the same year it had 654 localities (four times more than Oxchuc) dispersed in a vast rural territory of more than 1,685 km², of which one third of the municipality is located in the Selva La- candona region of the state. In addition, it faced adverse political conditions. The survey could not be carried out on the ground, as the anthropologists were met with violence by opponents and prevented the development of the investigation (SI- PAZ, 2019). Unlike in Oxchuc, the IEPC did not have the support of the municipal authority to facilitate the consultation and, on the contrary, it was accused of sabotaging it (EDUCA, 20199). Not only that, but both IEPC staff and the members of the "Community Government Commission for Chilón and Sitalá", who were the promoters of the initiative and who accompanied them, were attacked by

opponents of the regime change, in the midst of the "community government".

of a broader repressive context, with several dozen people in a situation of forced displacement, due to militarization in the municipality.

In this context of violence, the IEPC demanded security conditions to be able to carry out the tasks required for the consultation process (Chiapas Paralelo, 2020). For the year 2020 new adversities were added. The COVID-19 pandemic has prevented entry to the communities and they closed their internal borders to avoid contagion. Thus, despite the fact that Chilón and Sitalá won sentences since 2018 so that through a consultation they can express their support (or not) for the change of regime, however, by the end of 2020 the consultation had not materialized, so it is unlikely to be held before the elections of 2021, since the electoral times have already reached them. The process will have to be restarted after June 6, 2021, which is the date when the election day to elect 40 local deputies and 123 City Councils will take place. And, the change of regime, if it proceeds, will be until 2024.

In the face of these challenges, the IEPC has hardened itself. When it carried out the indigenous consultation in Oxchuc, it oriented its strategy taking as a roadmap the jurisprudential criteria that weighted the community assemblies as the rightful subject of the decisions, but in the case of Chilón, the challenges it has faced have made it difficult to replicate this model. In a scenario of new municipal elections to be held in 2021, the IEPC "chiapanequized" the rules and on March 20, 2020 approved a "Regulation to address requests for indigenous consultations in electoral matters, presented to the Institute of Elections and Citizen Participation of the State of Chiapas" (Acuerdo IEPC/ CG-A/008/2020) that distanced itself from how it had been applied in Oxchuc. In reinforcement of the regulation, the State Constitution was modified and recognized the indigenous peoples of Chiapas their right to elect their authorities through their own normative systems (June 24, 2020), so that the au- tonomic demands for the change of electoral regime will no longer require going to court to demand this right. Now the IEPC is the window for the process.

With these decisions there are several novelties. The regulation establishes that in the petition for regime change the promoters must be legally recognized community authorities, and not social organizations as has been the case so far in Oxchuc, Chilón and Sitalá. The authorities and the local population will have to build internal consensus, so the request to be channeled to the IEPC must be the product of a "general assembly of co-

The request must be submitted after the conclusion of an electoral process, in order to begin its preparation, which will be lengthy, given the large number of assemblies that must be held to give support and community consensus to the application.

Thus, unlike in Oxchuc, where it was the IEPC that assumed the task of reconstituting the assembly system in order to be able to proceed with the indigenous consultation, in the regulations that will now govern the consultations, it distances itself from its excessive intervention, and will now be the recipient of the demand of an indigenous people struggling for the recovery of its political autonomy. Even the "management committee" will have to gather the documentation that determines the existence of an indigenous people, without the necessary interference of external anthropological expertise, as the TEECH sentences had demanded, both for Oxchuc, as well as for Chilón and Sitalá. And, although the challenge is perceived as difficult for the indigenous municipalities in the state that are interested, given the atomization of their assembly due to their adhesion to political parties, it would be presumed that by going through an election of indigenous normative systems, these municipalities will have the opportunity to begin a new path towards the reconstitution of their assembly system and with it their re-constitution as an Indigenous People.

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Building autonomy in Mexico City

Consuelo Sanchez

On February 5, 2017, the first Political Constitution of Mexico City was published. This recognizes the intercultural, plurilingual, plurilingual, pluri- nic and pluricultural nature of the capital-city of the Mexican Republic; establishes the collective and individual rights of peoples, neighborhoods and communities, and creates a system of territorial autonomy.[1]

In this chapter we will discuss the actions carried out in the Constituent Assembly that led to the establishment of the territorial autonomy of native peoples and neighborhoods in the Constitution of Mexico City, based on my experience as a constituent deputy. First, we will briefly introduce the historical and contemporary basis for the claim of autonomy of the native peoples and its link with the demand of the capi- talinos for the expansion of their rights and freedoms.

The historical basis of autonomy

The Constitution of Mexico City begins with a phrase in Ná- huatl and Spanish by the author of the *Memorial of Colhuacan*, Domingo Chimalpáhin: "As long as the world lasts, the fame, the glory of Mexico Tenochtitlan will not end, will not perish". The city of Mexico Tenochtitlan was the main seat of the Triple Alliance of Tetzcoco, Tlacopan and Tenochtitlan, which dominated a large part of Mesoamerica since its foundation in 1428. Each of the three parts of the Alliance was composed of numerous altépetl, which were the basic political-territorial unit of belonging and socio-political differentiation among the different peoples of the region: culhuaque, cuitlahuaca, otomíes, mixquica, xochimilca, chalca, tepaneca, acolhuaque and mexica. The altépetl was made up of a territory, a di-

1 Parts of this paper were published in Sanchez (2019).

nastic or tlatoani, and a set of territorial subunits called cal-pulli: each with its own authorities.

After the war of conquest (1521), the city of Mexico Tenochtit- lan was converted into the capital of New Spain. The defeated altépetl were reorganized into cabecera towns with their subjects, and their forms of government in the institution of the cabildo. The cabecera was the place where the tlatoani had his main seat and continued to be the seat of indigenous government in the form of the cabildo; the subjects were the barrios, estancias and pueblos (calpulli and/or tlaxilacalli). The towns and barrios were given the Christian name of the patron saint along with the old indigenous denomination. The Indian cabildo was made up of a governor and a variable number of mayors, regidores, scribes, bailiffs and other positions. At the end of the colonial regime, the Cortes of Cadiz promulgated the Spanish Constitution of 1812, which annulled the system of indigenous government and jurisdiction, and instituted the town council as the only form of local government without any ethnic distinction in its configuration and functioning.

In the prelude to independence, the Creole oligarchy that led the process of conformation of the Mexican State upheld the liberal ideology of the Cortes of Cadiz as the foundation for the organization of the nation; it revalidated the annulment of the indigenous governments and territorial jurisdictions; It demanded the transfer of their goods and communal funds to the town councils, as their own, and prepared the ascension of Creoles and mestizos to the main positions in the town council, who sought to impose their class interests and ethnic vision. At the same time, the liberal reforms of the second half of the 19th century allowed the towns to administer, own and acquire real estate on their own; they declared the non-existence of indigenous towns as a legal entity, as well as communal property; and imposed the privatization of communal lands. Nevertheless, these peoples remained in spite of the State's denial of their existence (García Martínez, 1991; Powell, 1974).

In 1824 the republic opted for federalism and the Federal District was created as the seat of the powers of the federation. The jurisdiction of the Federal District included Mexico City, proclaimed capital of the Mexican Republic, as well as numerous towns and neighborhoods integrated into different municipalities. The Federal District did not achieve the same political status as the states of the federation, which had their own congresses with the capacity to elaborate their respective constitutions, laws and decrees. It was argued that because it was the residence of

The Federal District depended in its political and economic regime on the Federal Executive (President of the Republic), who delegated his powers to a public official called Governor, and the Chamber of Deputies had the power to legislate for the Federal District. The Federal Constitution of 1857 maintained the same political status of the Federal District and the diminution of the political rights of the capital.

Once the Federal Constitution of 1917 was promulgated, in the aftermath of the Mexican Revolution, the constituent congresses of each state of the federation drafted their respective local magna carta magna. On the other hand, the Federal District remained under the same political limitations of the 19th century: the legislative function of the capital continued to be the responsibility of the Congress of the Union. In the capital, as in the rest of the country, the free municipality was instituted, administered by a *directly* elected city council. In 1928 the municipal system was abolished in the Federal District and the right of the people of the capital to elect local authorities was eliminated. The government of the capital continued to be in charge of the President of the Republic through the Head of the Federal District Department, who exercised his powers in the delegations through the delegados, who replaced the municipal councils.

As a result of the agrarian reform, more than 90 agrarian nuclei were created in the original towns of the Federal District, which came to cover nearly half of the territory of this entity, while the capital city became the nucleus for the concentration of industry, commerce, infrastructure and urban, educational and population services, which led to an accelerated process of urbanization of rural areas and self-sufficient peasant agriculture. The population of the Federal District grew from 1.2 million inhabitants in 1930 to nearly 9 million (a total of 8,831,079) in 1980.
(Espinosa López, 2003).

The contradictions generated by capitalist urbanization in the city-capital largely explain why it became the epicenter of social movements such as those of workers (such as the emblematic one of the railroad workers), students (such as that of 1968) and urban-popular organizations. The latter were particularly active in the 1980s, especially after the 1985 earthquake. These years are described as a key cycle of social effervescence and politicization of the people of the capital, accompanied by attempts to articulate social and civil organizations based on urban demands and policies for change in the relationship between the capital's society and the State.

They joined forces with leftist groups to demand the political rights of the people of the capital and the conversion of the Federal District into another state of the federation, the "State of Anáhuac", with the same sovereign conditions. These mobilizations led to the creation of the Legislative Assembly of the Federal District in 1987, with powers limited to regulatory powers, which were later extended to the legislative sphere. In response to this meager result, the people of the capital promoted and organized a plebiscite in 1993, which influenced the constitutional reform of that same year that empowered the federal Congress to issue the Statute of Government of the Federal District, approved in 1994; In 1996 another reform was made which finally recognized the political-electoral rights of the people of the capital to elect by free and secret ballot the head of government of the entity in 1997, and the delega- tional chiefs as of 2000 (Espinosa, 2004; Coulomb & Duhau, 1988). Notwithstanding these conquests, many capitali- nos maintained the demand that the Federal District should obtain the same powers as the states of the federation.

In January 2016, the Political Constitution of the United Mexican States was again amended in the matter of political reform of Mexico City. It mandated the creation of the Constituent Assembly that would promulgate the *first* Political Constitution of Mexico City. The Assembly was to be installed on September 15, 2016 and conclude its legislative work on January 31, 2017. The reform establishes that the Federal District will be called Mexico City, considered as a federative entity without being recognized as a State of the federation.

In this reform, the term *federative entity* includes both the States of the federation and Mexico City; but in Article 2 it distinguishes "the sovereignty of the States and the autonomy of Mexico City".[2] Some analysts interpret that the political reform instituted a special regime of autonomy for Mexico City. Enrique Rabell García states that:

2 This difference established in Article 2, paragraph A, section III, is part of the 2016 reform of the Political Constitution of the United Mexican States. In Article 122 it establishes that Mexico City "is a federative entity that enjoys autonomy in all matters concerning its internal regime and its political and administrative organization"; and in Article 40 it states "...in a representative, democratic, secular and federal Republic, *composed of free and sovereign States* in all matters concerning their internal regime, *and by Mexico City*, united in a federation established according to the principles of this fundamental law". (The italics are ours).

> Although the reform included the name of Constitution for Mexico City, as well as a constituent power; in consideration of the constitutional technique it is actually a Statute of Government proper of an autonomous entity. (Rabell García, 2017, p. 265)

In my opinion he is mistaken, because according to the constitutional technique of autonomy, the statute of autonomy is a law, whose rank may vary: "constitutional law, organic law or ordinary law" (Díaz Polanco, 1991), this law or statute is approved by the legislature of the national or plurinational State in question, and the reform of the statute is also limited by the intervention of the legislative power of the State, which is authorized to approve the proposed reform (Álvarez Conde, 1980, pp. 105-144). 105-144). The above corresponds to the Statute of Government of the then Federal District, which was approved by the Congress of the Union in 1994; but this is not the case of the Constitution of Mexico City, which was approved and promulgated by the Constituent Assembly of this entity; likewise, the approval of "additions or reforms to the Political Constitution of Mexico City" corresponds to the Congress of this entity.[3] The federal Congress does not have any authority in the approval, promulgation and amendments to the Constitution of Mexico City. Therefore, it is not a statute of autonomy but a Constitution, even though Mexico City is not named as another State of the Republic.

The legislators who approved the federal reform did not want to attribute to Mexico City the status of "free and sovereign state" like the other federative entities, but they had to go beyond the regime of autonomy that had already been achieved in the capital city as a result of the political reforms of the 1990s. On this occasion, as already mentioned, it was the Congress of the Union that drafted and approved the Statute of Government of the Federal District in 1994. Therefore, in order for the 2016 reform to bear the political fruits expected by its promoters
-especially on the part of the Head of Government- was supposed to surpass the existing autonomy regime in the city. The fact is that the 2016 reform reduces the distance separating the states of the federation from Mexico City: Mexico City acquires almost the same powers as the member states of the federation, while postponing its enunciation as a state.

3 Article 122, paragraph A, section II of the Federal Constitution.

Mexico City continues to be the capital of the Republic and the seat of the powers of the Union; for this reason, it was not instituted as one more State of the Federation -in the 32nd State as the people of Mexico City have been claiming for decades- with the argument maintained since the 19th century that two powers cannot coexist in the same space: the federal and the state powers. An unconvincing argument, since in other countries with a federal regime their capital-city constitutes a city-state, as in the Federal Republic of Germany, whose capital-city, Berlin, is one of the 16 states that make up the German federation.

The Preamble of the Constituent Assembly

The decree of political reform of Mexico City, published on January 29, 2016, contained three problematic aspects that restricted the sovereign power of the Constituent Assembly, namely, the form of its integration, the power granted to the Head of Government of Mexico City to prepare the draft Constitution and submit it to the Constituent Assembly, and the instructions on the structure of government of the city established in Article 122 of the Federal Constitution, which the Constituent Assembly had to abide by. All of this seemed contradictory to the transitory provision (Article Seventh, section F) of the same reform which establishes that "The Constituent Assembly will exclusively exercise all the functions of Constituent Power for Mexico City".

Mexico City's political reform was part of the agreements of the so-called Pact for Mexico, signed in December 2012 by President Enrique Peña Nieto and the leaders of the Institutional Revolutionary Party (PRI), National Action Party (PAN) and Democratic Revolutionary Party (PRD). The pact included commitments to promote neoliberal structural reforms in the areas of education, labor, telecommunications and energy, among others, which added to the reforms initiated by President Carlos Salinas de Gortari (1988-1994). The reforms of said pact were framed in the purpose of privatizing energy resources and oil income to transnational corporations; the expansion of private business in telecommunications and broadcasting; the privatization of public education and the limitation of teachers' labor rights; and, in general, the depreciation of workers' rights and labor precariousness (Contreras Carbajal & Mejía Montes de Oca, 2018; Cár- denas Gracia, 2016). It was, in sum, about shoring up private business and "the class power of the ruling classes" (David Harvey, 2007). The "Pact for

Mexico" was possible because, in short, the PAN was in favor of such reforms and the PRD had neoliberalized.

The legislators of those parties established in the political reform of Mexico City the procedure for the integration of the Constituent Assembly: it was to be made up of 100 deputies; of these, 60 were to be elected by popular vote, according to the principle of proportional representation, and 40 were to be appointed by the established powers: 14 appointed by the Chamber of Senators; 14 by the Chamber of Deputies; six by the President of the Republic (Enrique Peña Nieto, of the PRI), and six by the Head of Government of the Federal District (Miguel Ángel Mancera, of the PRD). The legislators of the Movimiento de Regeneración Nacional (Morena) party opposed and voted against.[4] Likewise, social and civil society organizations expressed their disagreement with the appointment of 40 constituents who were not democratically elected. It was argued that this violated the sovereignty of the Constituent Assembly and the democratic principle of popular representation, according to which it corresponded to the inhabitants of Mexico City to elect all the members of the Constituent Assembly, and in no case to the constituted powers -the Congress of the Union, the federal and local Executive-, who attributed to themselves the role of "great electors".

According to such reform, the election of the 60 constituents would be through the candidates of the political parties and independent candidacies. The legislators did not contemplate sectorial and territorial representation. The comuneros of Milpa Alta filed an injunction against the political reform of the City arguing that the towns were not consulted nor was their participation in the integration of the Constituent Assembly considered, even though they are owners of a significant part of the mega-city's territory.

The Superior Chamber of the Electoral Tribunal of the Federal Judiciary issued a ruling on February 25, 2016, in which it ordered affirmative actions in favor of young people and indigenous persons, peoples and communities to guarantee their participation in the Constituent Assembly. To this end, it instructed the electoral institute and "the political parties that intend to register candidates for the Constituent Assembly".

4 Morena is a leftist party-movement, which obtained its official registration in 2014. Its top leader, Andrés Manuel López Obrador, is today the president of Mexico. I was a constituent deputy for the Morena party, so inevitably my vision of the process is crossed by this

condition.

shall include in the first block of ten, of those they propose, at least one indigenous candidate", as well as a young person.[5]

For several analysts it was evident that in the procedure for the designation of 40% of the constituents there was the intention, on the one hand, to guarantee an over-representation of the coalition parties (PRI, PAN and PRD) to control among them the constituent process and, on the other hand, to prevent Morena from having a majority and being able to influence the orientation of the new constitution. There was the precedent of the elections in the Federal District for delegates, assembly members and federal deputies on June 7, 2015, in which Morena was the political party that obtained the highest number of votes, being the first time it participated in an electoral contest (Ascencio et al., 2016).

In Morena, the question was raised as to whether or not the party should participate in the Constituent Assembly, knowing that the parties of the Pact for Mexico had already secured an advantageous position to approve the constitution and to obstruct what did not suit them. There was also a risk that they would use this advantage to impose a neoliberal agenda in the local magna carta magna, and divert some of the social rights that had been achieved in Mexico City, such as the decriminalization of abortion (2007) and same sex marriages (2009). A debate was held in which it was concluded that Morena should participate in order, on the one hand, not to leave the field free for the neo-liberals to make a constitution to suit their needs, and, on the other hand, to fight for the maximum citizen rights and defend a different model of city than the one produced by "urbanizing capital".

The Morena party presented its list of 60 candidates for constituent deputies, assuming the principle of gender parity: 30 women and 30 men. It refused the economic resources (more than 10 million pesos) that the electoral institution granted to each political party to finance the electoral campaign for the constituent deputies. Our campaign was austere, relying only on our own resources.[6] We candidates went to public squares, towns, neighborhoods and colonias; we attended delegate and regional assemblies organized by the party to inform about the Constituent Assembly and the issues we would promote. In this process, Morena achieved

5 TEPJF. Ruling No. SUP-RAP-71/2016 and accumulated.

6 The political campaign began on April 28, 2016 and would last 45 days.

The public opinion on several issues, some of which appeared in the draft of the Constitution by the Head of Government.

The election of the 60 constituent deputies was held on June 5, 2016. According to the election results, Morena obtained 22 constituent deputies; it was followed by the PRD, with 19; the PAN, 7; the PRI, 5; the New Alliance Party (Panal), 2; the Social Encounter Party (PES), 2; the Green Eco- logist Party of Mexico (PVEM), 1; Citizen Movement, 1; and 1 independent. The result was modified with the 40 deputies appointed, not elected.

Morena was the only party that rejected any deputy that was de- signed; so it only had the 22 constituents elected by popular vote. The PRD got 29 (19 elected and 10 appointed); the PRI, 22 (5 elected and 17 appointed); and the PRD, 22 (5 elected and 17 appointed).
The PAN, 15 (7 elected and 8 appointed); the Panal, 3 (2 elected and 1 appointed); the PES, 3 (2 elected and 1 appointed); the PVEM, 3 (1 elected and 2 appointed); and the MC, 2
(1 elected and 1 appointed); and 1 independent.

The PRI, which remained in fourth place in the electoral preferences of the people of the capital, was the most benefited by the designations, having the same number of constituents as the party that positioned itself as the first electoral force: Morena. The number of deputies designated and elected from the PRD, PRI and PAN added up to exactly two thirds required to approve or veto the articles of the constitution.

Already in the Assembly, the Morena constituents manifested at all times our rejection of the appointed deputies. Our protest was articulated with another very heartfelt protest in the country, through the slogan devised by the coordinator of the Morena parliamentary group, Bernardo Bátiz: "We have 40 too many and 43 are missing" (the latter in allusion to the 43 young missing students from Ayotzinapa on the night of September 26, 2014, which shocked the country and filled the social dissatisfaction with the atrocious toll in human lives of the so-called war on drug trafficking).[7]

7 The government of former President Peña Nieto (2012-2018) not only failed to resolve the case of the 43 missing youths, but also covered up the facts, as has been documented by the investigations being conducted by the Special Prosecutor's Office for the Ayotzinapa case,

created at the urging of President Andrés Manuel López Obrador in early 2019.

Another source of disagreement with the political reform was the provision that granted the head of government, Miguel Angel Mancera, the "exclusive power" to draft the draft Political Constitution of Mexico City and to submit it to the Constituent Assembly for discussion, modification, addition and vote. Such power granted to a *constituted power* was considered as another limitation to the exercise of the *constituent power* of the Constituent Assembly.

The then president of Morena in the capital, Martí Batres, proposed in February 2016 to draft an alternative proposal for the Constitution of Mexico City, with the participation and collaboration of citizens, social and civil society organizations, academics, experts in the different problems of the city. To this end, a Drafting Council was formed, made up of 100 personalities from different professions: philosophers, jurists, writers, economists, anthropologists, urban planners, ecologists, sociologists, artists, historians, filmmakers, sportsmen, human rights defenders, defenders of sexual diversity and women's rights.[8] I had the opportunity to participate in this Council, which was formed before the definition of Morena's constituent candidates.

At the same time, Morena promoted a series of debates, through thematic forums, with different social sectors (youth, indigenous, intellectuals, LGB-IT community, etc.), as well as consultations in all delegations. In these events, proposals and perspectives of the city were socialized. They also made it possible to gather historical and contemporary demands, desires and aspirations of inhabitants, collectives, social movements, indigenous peoples and communities, all of which were integrated into the alternative draft of the Constitution.

After the election day of June 5, 2016, the 22 elected deputies of Morena took up the alternative proposal for the capital's constitution, initiated by the above-mentioned Drafting Council. We met once, twice and even three times a week to discuss each of the issues to be contained in the constitution and try to set a unified position in all fields. This work was very intense and enriching, as it involved a debate of ideas and arguments to reach the internal consensus necessary for the drafting of the constitution.

8 Among them were Enrique Dussel, Laura Esquivel, Enrique Semo, Héctor Vasconcelos, Guadalupe Ortega, Héctor Díaz Polanco, Paco Ignacio Taibo II, Gabriela Rodríguez, Bernardo Bátiz, Irma Eréndira Sandoval, Jaime Cárdenas Gracia, Julio Boltvinik and John Ackerman.

The joint defense of the fundamental proposals that emanated from these meetings, among which was the autonomy of the native peoples.

The composition of Morena's constituents was very pluralistic. There was gender equity (11 women and 11 men), academics, artists, representatives of civil and social organizations; many were "external" to the party, but sympathized with the ideals and fundamental approaches of the movement's political program, which helped both in the process of joint construction of what was called the "Constitutional Agenda of Morena", and in their support. There was no party discipline, not only because many were not Morena militants, but also because there was freedom to make contributions on all issues, including issues that were central to the party, such as preventing the privatization of water, public services and public spaces; getting social programs -which had been created by Andrés Manuel López Obrador when he was head of government of the city-capital (2000-2006)- fixed in the constitution, the expansion of rights and liberties of the capital's citizens, the right to the city, measures to combat corruption and electoral fraud, ensuring the rights of the original peoples and neighborhoods and resident indigenous communities. On the latter there was unanimity among the constituents; but as for the proposal to institute the autonomy regime, there were certain objections from some of the fellow constituents, which were resolved as the scope, meaning and contribution of autonomy to democracy, justice and equality in the city became clearer. Only one maintained his disagreement, arguing that what was needed was an institution of the city government to protect and ensure the rights of these social subjects, thinking especially of the indigenous people who have settled in the city from other regions of the country. We explained that it was necessary to address the different situations of indigenous people in the city (of the original peoples/neighborhoods, of the resident indigenous communities, and of the indigenous population in transit or seasonally in the city) and to provide just solutions for each case. This implied combining different policies and having them enshrined in the constitution. It would be unjust to block the right to autonomy to those peoples who were claiming it. Besides, it was a right recognized in the federal Constitution, and our legislative work consisted of instituting in the local Constitution the regime for its exercise. The president of Morena in Mexico City, Martí Batres, agreed with the autonomist position and also agreed to reach internal agreements.

At the end of August 2016, we Morena constituents presented to the public opinion of the capital a document entitled "Sentiments of the City". This contained 20 principles (which we pledged to promote and defend in the Constituent Assembly) based on Morena's Constitutional Agenda (Morena, Grupo Parlamentario Asamblea Constituyente Ciudad de México 2016). These points became our unrenounceable or irreducible precepts in the Constituent Assembly. We were committed to the recognition of the city as a "pluricultural, pluriethnic and multilingual community" in the Constitution of Mexico City; the protection and expansion of "human rights, both individual and collective and social rights enshrined in the Federal Constitution and in the international treaties signed by Mexico", as well as the provision of "the resources and legal means to guarantee their respect"; guarantees of political freedoms (of all, and especially of young people and women), of assembly, demonstration, beliefs, thought and expression of ideas, including the right to civil resistance; the rights of (international) migrants and their families; the rights of sexual diversity; the rights of women, ensuring gender equality and substantive equality of women and men, gender parity in the legislative, judicial and governmental bodies, and the right of women to decide about their bodies. The rights of indigenous peoples and neighborhoods to *self-determination and autonomy*, and to be consulted. The right to culture, collectively and individually, as well as the preservation and enhancement of culture and urban, artistic and historical heritage. The right to free, secular, universal and free education at all levels and grades; to establish free public education from preschool to higher education. The protection and preservation of the ecosystem and natural areas. To restore to "workers the labor rights and social guarantees of which they have been deprived in recent decades"; the "creation of cooperative enterprises, as well as plans and programs so that workers have the option to participate in the direction, management and ownership of the enterprises". Institutionalize the human right to water and guarantee the right to drinking water for all; prevent the privatization of water and establish the public nature of water collection and distribution systems in the city, as well as the prohibition of the privatization of these public services. The "right to sufficient, economic and non-polluting public transportation". The "right to health, to decent housing, to safe and efficient mobility". Incorporate the pension for the elderly and all social rights and programs in the Constitution. The right of everyone to receive a basic income or universal citizen's income. Pro-

to make the media, particularly electronic media, available to higher education institutions, communities, indigenous peoples and organized citizens. Establish "the right of free access to the Internet".

We would also be responsible for establishing the sovereignty of the capital and its exercise "through the legislative, executive, judicial and popular or community citizen powers". *Popular citizen power* would be exercised "through institutions of direct democracy such as the popular initiative, the referendum, the plebiscite, the revocation of the mandate and citizen actions". We would establish that major issues of interest to the city be "submitted to consultation, particularly high-impact urban development projects. We would promote norms to combat corruption such as "transparency, oversight and citizen audits", the removal of corrupt governors and legislators and the seizure of "the assets resulting from their acts of corruption", among other measures. And we would support the demand that the final text of the Mexico City Constitution be submitted to "the direct approval of the people through referendum".

In short, our commitment was to promote a democratic, participatory, multiethnic and popular Constitution; with a vision of law and rights opposed to the neoliberal approach; that is, conceived from a position centered on the vital needs of individuals and collectivities, taking into account their socio-cultural heterogeneity, very different from that approach that aims at strengthening the dominance of business and the ruling classes.

Construction of the autonomy regime project

I saw in the Constituent Assembly the historic opportunity to institute in Mexico City the longed-for autonomy demanded by the original peoples and neighborhoods; one that would allow them to govern themselves and actively participate in the political, economic, social and cultural life of the city, as several of them had been demanding. In the 1990s I had the opportunity to collaborate with the country's indigenous organizations in the reflection and elaboration of the political project for autonomy of the Plural Indigenous Assembly for Autonomy (ANIPA), and to participate as an advisor to the EZLN in the San Andres dialogue, which resulted in the Agreements signed by the Zapatistas and the federal government in 1996, whose point

The central issue is the right of indigenous peoples to self-determination and autonomy (Burguete Cal y Mayor, 1995; Díaz Polanco & Sánchez, 2002).

The emergence of the EZLN had a double key effect: on the one hand, it placed in the national public debate the issue of constitutional recognition of the rights of indigenous peoples and, in particular, that of self-determination and autonomy, as never before in the country, including the city. On the other hand, it encouraged indigenous peoples to affirm their identities and fight for their rights.

In general, the Zapatistas created an ethical and political scenario more favorable to the demands of the indigenous people of Mexico City. It should be remembered that a delegation of the EZLN, made up of 23 commanders and the sub-commander Marcos, toured various parts of the country in their March of the Color of the Earth, until they arrived in Mexico City, where they stayed for 18 days, from March 11 to 29, 2001, with the purpose of promoting the recognition in the Mexican Constitution of indigenous rights and culture, as an unavoidable action for the fulfillment of the San Andres Accords. During these days they visited different native towns and universities, in very well attended events, in addition to a multitudinous mobilization in the city's Zócalo (March 11) and another in the surroundings of the Chamber of Deputies on March 28, when Comandante Esther and Comandantes David, Tacho and Zebe- deo of the EZLN spoke in the highest tribune of the Congress of the Union.

A few days after the Zapatistas returned to Chiapas, the Congress of the Union approved the constitutional reform on indigenous rights and culture. The EZLN and the indigenous organizations were dissatisfied because it did not respond to their aspirations nor did it adhere to the San Andres Accords.[9] This dissatisfaction discouraged the Federal District from promoting the legislation corresponding to the constitutional reform. The debate on the relevance of having local legislation on the rights of native peoples and resident indigenous communities was triggered by the growing demand of the subjects themselves for it to become a reality; by the reports of the Human Rights Commission of the Federal District (CDHDF) on the alarming situation of discrimination against indigenous peoples and indigenous communities.

9 In the communiqué of April 29, 2001, the EZLN states its position regarding the constitutional reform on indigenous rights and culture (Comité Clandestino Revolucionario Indígena-Comandancia General del Ejército Zapatista de Liberación Nacional, 2001).

The Commission also made recommendations to the Legislative Assembly on the urgency of reforming the legal system of the entity to guarantee the rights of indigenous peoples and communities in accordance with the Mexican Constitution, the San Andrés Accords, ILO Convention 169 (ratified by the Mexican State in 1990) and the United Nations Declaration on the Rights of Indigenous Peoples (Human Rights Commission of the Federal District, 2007).

The CDHDF noted that, in legislating on the recognition of indigenous rights, the Legislative Assembly:

> It must *take into consideration the different components of that plurality of which the indigenous are a part*, bearing in mind, in addition, the differences that exist among them and *the variety of their respective situations*, including that of the original peoples and resident indigenous communities and even that of indigenous migrants in transit through the city itself (CDHDF, 2007. Italics ours).

These legislative recommendations were reiterated in the Program for Human Rights in the Federal District, published in 2009, which indicated, as a first strategy, "guaranteeing autonomy". To this end, it established two lines of action: in the first, it reiterated the responsibility of the Legislative Assembly to "Make proposals for reforms to the current regulatory framework in the Federal District, through consultation and participation of the resident indigenous communities and native peoples themselves, in order to implement the right to self-determination". In the second, it assigns to the Legislative Assembly and the Secretary of Rural Development and Equity for Communities (SEDEREC) the responsibility of drafting a proposal for an Indigenous Law, specifying that the "drafting process must guarantee, as a *sine qua non* requirement, broad consultation" (CDHDF, 2009).

Thus, in the Federal District, the demand for 1) a legal framework to "implement the right to self-determination" and "guarantee the autonomy" of indigenous peoples and communities, and 2) ensure the consultation, participation and consent of native peoples and indigenous communities in the elaboration of such legal framework was taking shape.

In this context, between 2010 and 2011, three law initiatives on indigenous rights were submitted to the Legislative Assembly of the Federal District. These were presented, in the order of their submission, by 1) the Union of Indigenous Artisans (Unión de Artesanos Indígenas).

and Non-Salaried Workers, A.C., 2) the SEDEREC, and 3) the Consejo de los Pue- blos y Barrios Originarios del Distrito Federal (Council of the Original Towns and Neighborhoods of the Federal District).[10] Each of these proposals was accepted by different deputies.

The initiatives were referred to the Commission on Indigenous Affairs, Indigenous Peoples and Neighborhoods and Attention to Migrants of this legislative body. After examining them, the Commission resolved to approve the Opinion of the Initiative of the Law on the Rights and Culture of Indigenous Peoples and Communities in the Federal District, 2012. In the resolutions of the Opinion, it provided for the creation of a Follow-up Commission and a Committee of Mechanisms for the development of the consultation with the native peoples and indigenous communities, "with the purpose of obtaining their free, prior and informed consent to the legislative measure proposed in this opinion".

The Committee of Mechanisms was made up of representatives of the capital's government (heads of the ALDF's Commission on Indigenous Affairs, the Ministry of Government and SEDEREC, the Office of the Legal Counsel and Legal Services); representatives of the indigenous peoples (6 from the original peoples and 6 from the resident communities, with their respective alternates) and 6 people "experts in culture and indigenous rights", three of them belonging to the peoples and communities.

I was invited to join the Mechanisms Committee as an "ex- pert". The installation of this collegiate body was formalized in December 2013. In the Mechanisms Committee we agreed to prepare a proposal for a draft bill, based on the initiatives received in the ALDF, the legislative measures of the Opinion of the ALDF Commission on Indigenous Affairs, the San Andres Accords, the Mexican Constitution, ILO Convention 169 and the UN Declaration.

10 The Council of Indigenous Peoples and Neighborhoods of the Federal District was created in 2007, "as a coordinating body of the Public Administration of the Federal District and citizen participation, focused on the promotion, preservation and dissemination of the original and traditional culture of the indigenous peoples and neighborhoods of Mexico City". The Council was integrated by the head of the capital's government and the heads of the Secretariats of Government, Environment, Social Development, Health, Tourism, Culture, Civil Protection, Education and Rural Development and Equity for the Communities, as well as the delegations. The Council would also include "representatives of the original peoples and neighborhoods and of the social and civil organizations interested in the matter", according to its internal regulations. The Council depended on the Secretary of

the Interior of the entity (Acuerdo por el que se crea el Consejo de los Pueblos y Barrios Originarios del Distrito Federal, 2007).

In this process, we adopted an autonomous approach that guided the whole meaning of the norms and rights that were being organized in the proposed law, for which new formulations were made of several rights, so as to broaden their scope and guarantee their effective exercise, including the right to self-determination and autonomy of native peoples and resident indigenous communities. I was responsible for developing the part on the autonomy regime, which was discussed and agreed upon by the members of the Committee. The policy document prepared by the Committee was entitled Propuesta de Anteproyecto de Anteproyecto de Iniciativa de Ley de Pueblos y Barrios Originarios y Comu- nidades Indígenas Residentes del Distrito Federal (2014), which was submitted for consultation (Sánchez, 2018, pp. 305-336).

We also designed the consultation methodology (principles, standards and procedures). The consultation began in August 2014. Once the results of the consultation were integrated, the Preliminary Draft Bill was formally delivered to the Legislative Assembly of the Federal District on March 22, 2015. It was never submitted for consideration and approval among the assembly members. In that same year, the political reform of Mexico City was being discussed at the national level.

This experience was useful for the design of the methodology of the consultation that we carried out in the Constituent Assembly. It also helped me in the preparation of the initiatives that I presented in the Constituent Assembly, especially the one referring to autonomy, which had the acceptance of the members of the original peoples/neighborhoods and indigenous communities that participated in the consultation of that proposed law and gave their consent.

Once I was designated as a candidate for constituent deputy, I visited native villages and neighborhoods where we talked about the autonomy proposal that we would promote in the Constituent Assembly, among other issues, while gathering opinions, proposals and solutions.

Constituent process

We were aware of the draft Constitution of Mexico City of the Head of Government of the capital until the day of the installation of the Constituent Assembly, on September 15, 2016, when he formally handed it over.

In the Regulations for the Internal Government of the Constituent Assembly, drafted by a drafting Commission, composed of constituents from all political fractions, approved in a session of the Plenary and published in the *Parliamentary Gazette* on September 30, 2016, several of the requirements of the Morenistas to make the Constituent Assembly a process open to citizens were established. Article 2 states that the Assembly:

> It will be governed under the principles of transparency, maximum publicity, access to information, open parliament and the right of citizens, representatives of institutions and social organizations to be received and heard in the Commissions to make known their proposals regarding the drafting of the Political Constitution of Mexico City. (Regulations for the Internal Government of the Constituent Assembly of Mexico City, 2016).

Our charge as constituents was honorary, so we did not receive any remuneration. We constituents had the right to present initiatives of addition, modification or suppression in any matter of the draft constitution sent by the head of the city government. The deadline for doing so was October 30. The initiatives were presented in the plenary and referred to the corresponding commissions.

The Regulations established the integration of eight Legislative Commissions,[11] to each of which was assigned the part of the draft constitution of the head of government concerning the commissioned subject matter. The commissions were to prepare their respective opinions or draft resolutions based on the modifications and additions proposed in the initiatives of the constituents and citizens that were submitted to them in the plenary session. The opinion had to be approved by the absolute majority of the deputies present in the commission, and issued no later than November 30, 2016. After this date, the commissions presented their opinions to the plenary, where they were discussed and voted on article by article.

11 The Commissions were the following: i) Commission on General Principles; ii. Commission on the Bill of Rights; iii. Commission on Sustainable Development and Democratic Planning;
iv. Commission on Citizenship, Democratic Exercise and System of Government; v. Commission on the Judiciary, Procurement of Justice, Citizen Security and Autonomous Constitutional Bodies; vi. Commission on Municipalities; vii. Commission on Indigenous Peoples and Neighborhoods and Indigenous Resident Communities; and viii. Commission on Good Governance, Fight against Corruption and Regime of Responsibilities of Public Servants. Article 22.1 of the Regulations.

In the Morena parliamentary group, each of the constituents drafted their own initiatives in the areas in which they had the most knowledge and attention, especially on the issues that had been raised and agreed upon in the working meetings prior to the installation of the Constituent Assembly, described above. There was a small team of advisors who provided support on technical issues. The Morena constituents met several times a week to examine the constituent process and the position of the parliamentary group on different issues.

As constituent deputies, we were entitled to participate in two committees with voice and vote, and to attend the meetings of the other committees with voice but without vote. I participated as a full member, with voice and vote, in the committee of Indigenous Peoples and Neighborhoods and Resident Indigenous Communities and in the committee of Citizenship, Democratic Exercise and Government Regime.

For the first issue, I prepared and presented three initiatives in the plenary of the Constituent Assembly. Two of them were referred to the Committee on Native Peoples and Neighborhoods and Resident Indigenous Communities. One of the initiatives established the autonomy regime for native peoples and neighborhoods; their rights over lands, territories and natural resources; and the establishment of a new relationship between the urban, rural and environmental aspects of the city. The other initiative that was also turned over to this commission was on the collective and individual rights of resident indigenous communities. A third initiative, which was referred to the Commission on General Principles, established the creation of a *fourth level of government* in the city, that of territorial autonomies.[12]

In the first two initiatives, I proposed modifications and additions to articles 63, 64 and 65 of the executive's draft, which referred to the rights of "indigenous peoples and communities and native neighborhoods". Let us first take a broad look at the inadequacies of the executive's project, and then I will address the content of our initiative on autonomy.

The chief of government's bill did not adequately address the characteristics of the socio-cultural diversity of the city; in particular, the differences that exist between the native peoples and the resident indigenous communities; it equated them and standardized their rights. Article 65, paragraph B entitled "Au-

12 See bibliography for references to the three initiatives.

It also subtracted the scope of the right to self-determination (set forth in the United Nations Declaration on the Rights of Indigenous Peoples) and restricted it to "their internal affairs in accordance with their normative systems". It established indigenous jurisdiction, and transferred to a law the manner of exercising it and the competencies that would correspond to it in criminal matters. It should be noted that, although autonomy includes indigenous jurisdiction, it is not limited to this. Autonomy includes *self-government*, competencies in various areas (political, cultural, economic, etc., in addition to indigenous jurisdiction) and budget. None of this was contained in the proposal of the city's executive. The most notable aspect of its proposal was the recognition of the peoples, neighborhoods and communities as subjects of public law, with legal personality and their own patrimony.

In the same article 65, section C, it included a list of rights of the peoples and communities, as well as the obligations of the authorities, but did not specify how the exercise of these rights was to be guaranteed. In section D, it established rights over lands, territory and natural resources of the peoples; but, instead of providing for measures to ensure their effective protection, it introduced the possibility of exploitation and use of natural resources (including minerals) existing on their lands, by the city government and private individuals. I observed that this was a nonsense in Mexico City, since the lands that are still preserved by the native peoples are located in the ecological conservation area of the entity, so that their exploitation would have harmful environmental effects for the latter and, of course, for the peoples.

In the initiatives I presented, I sought to address the ethnic diversity of the city and try to provide fair solutions in the different cases, as they themselves have been pointing out. The members of the original peoples and neighborhoods are settled in their native territories; on the other hand, the members of the resident indigenous communities have moved from their native territories to Mexico City. This difference means that they have different experiences, problems and demands in the city, although they are united by the purpose of ending their situation of oppression, discrimination and exclusion. Thus, these are two categories of indigenous people who need to be understood in their specificity and their particular cultural, social, political, economic and territorial demands in the city must be justly addressed.[13]

13 For further reflections on these differences see the compilation of texts in Yanes, Molina and González (2005); in particular, Figueroa Romero (2005).

The constitutional basis for our initiative to create a regime of autonomy in the local magna carta was article 2, section A, of the Political Constitution of the United Mexican States, reformed in 2001 under the assumption of complying with the San Andres Accords. I argued that this article states that "The right of indigenous peoples to self-determination will be exercised within a constitutional framework of autonomy that ensures national unity" (Political Constitution of the United Mexican States, 2020). But, instead of instituting the constitutional framework of autonomy as demanded by the various expressions of the indigenous movement, it transfers to the constitutions and laws of the federative entities to determine "the characteristics of self-determination and autonomy that best express the situations and aspirations of the indigenous peoples in each entity".[14] Consequently, I argued, it was up to the Constituent Assembly to establish the characteristics of self-determination and autonomy of the original peoples and barrios, which implied *not repeating* what the federal Magna Carta says, but providing in the Constitution of Mexico City the bases, principles, instruments and norms for the establishment and functioning of autonomy - autonomy being understood as the concrete form of exercising the right to self-determination - so that the peoples could effectively exercise this right.

Our proposal recovered the autonomy project of the national indigenous movement defended in the San Andres Dialogue, adjusting it to the reality of the peoples and neighborhoods of Mexico City. It also rescued the autonomy regime that we introduced in the Proposal for the Preliminary Draft Bill of the Law of Indigenous Peoples and Neighborhoods and Indigenous Resident Communities of the Federal District (2014), prepared and consulted by the Committee on Mechanisms. And, of course, it gathered the feelings and longings expressed by the peoples and neighborhoods of the city in meetings, interviews and documents issued by them.

I also emphasized that in all countries where the right to autonomy of indigenous peoples has been instituted, such as in Nicaragua, Bolivia, and Bolivia, the right of indigenous peoples to autonomy has been recognized.

14 This provision of the federal Constitution left the outcome of the right to autonomy to the local powers. As already mentioned, the EZLN and the country's indigenous organizations did not agree with the procedure and content of the reform. The EZLN stated in this respect: "With this reform, the federal legislators and the Fox government (...) intend to divide the national indigenous movement by ceding to the state congresses an obligation of the federal legislature". (Clandestine Revolutionary Indigenous Clandestine Committee-General

Command of the Zapatista Army of National Liberation, 2001).

Canada, the constitutional framework includes new territorial areas as new orders of government.

Another source to support our proposal was the United Nations Declaration on the Rights of Indigenous Peoples (adopted by the UN General Assembly on September 13, 2007); in particular Article 3, which states: "Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." And Article 4:

> Indigenous peoples, in exercising their self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as the means for financing their autonomous functions (United Nations Declaration on the Rights of Indigenous Peoples, 2008).

It was necessary to understand that autonomy is not only a right, but also *a means* of guaranteeing that the peoples can exercise all their rights: political, social, economic, cultural, legal, territorial, environmental, etc. Consequently, our initiative established the essential mechanisms for the establishment of the autonomy regime, as summarized below.[15]

a. *Principles*. It establishes the right of native peoples to free determination, and the exercise of this right "within a legal framework of autonomy within the political and administrative organization of Mexico City. And it establishes the principles on which autonomy is based: strengthening the unity of Mexico City in diversity; "equality in plurality, democratic participation, recognition and respect for cultural diversity, intercultural coexistence and the good living of all.

b. *Territorial scope. "Territorial* spheres with powers of self-government are instituted in those portions of Mexico City in which the original peoples and neighborhoods are settled". It is added: "The demarcation

15 The initiative can be consulted at: "Iniciativa con proyecto de decreto por el que se modifican y adicionan los artículos 63 y 64 del Proyecto de Constitución Política de la Ciudad de México propuesta por el Jefe de Gobierno, en materia de Pueblos, Comunidades y Barrios Originarios; y Comunidades Indígenas Residentes, a cargo de la constituyente María Consuelo Sánchez Rodríguez, del Grupo Parlamentario de Morena". *Parliamentary Gazette*. Constituent Assembly of Mexico City, No. 23-I, Friday, October 28, 2016.

The territorial spheres shall be based on the historical, cultural, social and identity characteristics, and on the will of the members of the towns and neighborhoods, expressed in assemblies or in consultation.

"The different territorial spheres of the original peoples and neighborhoods are recognized as subjects and entities of public law, with legal personality, their own patrimony and autonomous forms of political and administrative organization".

c. *Self-government*. Each territorial area that is constituted "shall have an internal government, which shall be formed and exercised in accordance with its own rules, institutions, authorities, forms of internal organization and election of self-governments, and with the powers and competencies that shall be conferred by the Constitution and the corresponding law...".

"The governments, authorities and representatives of the towns and neighborhoods shall be elected in accordance with their own normative systems and procedures, and are recognized in the exercise of their functions by the authorities of Mexico City."

d. *Powers and competencies*. It confers "to the territorial spheres of the original peoples and neighborhoods powers and competencies in political, administrative, economic, social, cultural, educational, judicial, resource management and environmental matters".

The initiative lists a set of competencies of the territorial spheres of the peoples-neighborhoods, arranged in eighteen numerals, which include the normative function of a statutory nature; the application of their normative systems in the regulation of their territories and in the solution of internal conflicts; the organization of consultations; the elaboration, execution and monitoring of health, education, housing and economic activity programs within their territory, in coordination with the city authorities, as well as the protection of the environment, the restoration and management of forests, lakes, lakes and rivers, in coordination with the city authorities, as well as the protection of the environment; the elaboration, execution and surveillance of health, education, housing and economic activity programs within their territory, in coordination with the city authorities, as well as environmental protection, restoration and management of forests, lakes, aquifers and wildlife; control of their knowledge and natural assets (medicinal plants, seeds); historical, architectural, cultural, symbolic, sacred, artistic, handicraft and linguistic heritage; administration of

their community assets and spaces, among others. In addition to the powers defined in the initiative, it is indicated that they may have access to others established by the corresponding laws and other applicable ordinances.

It establishes "an institutional body for the coordination of the *three levels of government of the City*: the government of the city, of the mayor's offices and of the autonomous territories of the towns and neighborhoods".

e. *Budget*. It orders the allocation of budget items to the territorial areas of the original peoples/neighborhoods, essential "to guarantee the exercise of their competencies and faculties, and to amend socioeconomic and socio-cultural inequalities". It is stated that the "Congress of Mexico City will allocate the fiscal funds that will be transferred to the original peoples and neighborhoods", and will be destined to community welfare, agro-ecological production, ecological conservation, etc. In short, it is a matter of allowing them to be able to exercise their rights and powers, and to amend socioeconomic and socio-cultural inequalities. In short, it is a question of their being able to manage, as towns -and without the intermediation of the mayor's offices or any other authority- their own resources and access funds and the public budget in the exercise of a cooperative and solidary system, essential for their bodies and authorities to carry out the tasks of government, administration and justice assigned to them by the legal order itself.

f. *Representation in the local Congress*. Autonomy also includes the participation of the peoples in the decision-making bodies of Mexico City, so that these are configured in accordance with the pluri-ethnic composition of the entity. Autonomy is not self-absorption, isolation or autarchy, but a search for full participation in the life of Mexico City. Our initiative established: "In order to guarantee the political representation of the original peoples in the legislature of Mexico City, a special electoral constituency is created. The law shall define such constituency".

Sections C and D of the initiative establish the rights of the people over their lands, territories and natural resources and the basis for a new relationship between urban, rural and ecological spaces and ways of life in Mexico City.

Our initiative on autonomy contrasted with that of other constituents of the Commission. The constituents of the PRI, PAN and PRD considered the proposal of the local executive acceptable and agreed to establish a body or institution whose function would be to promote the rights and development of the towns, neighborhoods and communities. The PRI deputy proposed to convert the Council of Indigenous Peoples and Neighborhoods (which, as mentioned above, was created in 2007 as a coordinating body of the city's public administration, made up of various ministries of the capital's government,

the heads of the delegations and the heads of the local government offices) into a body or institution whose function would be to promote the rights and development of the indigenous peoples, neighborhoods and communities.

representatives of towns and neighborhoods) in an autonomous and decentralized body "subject to the instructions" of the Executive Power of Mexico City, and that "helps the governance" of the entity (Gómez Villanueva, 2016). A deputy of the PRD proposed something similar, to add in the proposal of the local executive the following: "To have an organism of representation and participation" of the subjects of law, which would be in charge of "the elaboration, implementation and guarantee of public policies for the attention and development of the original peoples and neighborhoods and resident indigenous communities".[16] The PAN deputy proposed the creation of "adequate institutions to guarantee the enforcement of the rights and integral development" of the peoples, neighborhoods and communities.[17] In truth, the proposals to create this type of organizations or institutions (whether or not they are formed by indigenous people or natives) is nothing new in our country or in Mexico City. They have been part of the various indigenist formulas that have been imposed on the peoples during the last century. In any of the cases, it has been done by denying or supplanting the autonomy of the peoples.

It was quite another thing to create a body to put into operation the autonomy of the towns, *once this has been established* in the constitutional framework, as finally established in the Constitution of the city.

Another constituent proposed basically what the federal Constitution says in Article 2, section A, adding the rights of resident indigenous people and communities, as well as the obligations of the authorities of Mexico City in the fulfillment of such rights (Mardonio Carballo, 2016). The point here is the absence of references to self-government, considering the different situations of both the original peoples and neighborhoods and the resident communities, so that these groups would continue to depend on the authorities and institutions of the capital in many of the matters that could be handled by the collec- tivities (original and indigenous) on their own. A comment from a representative of an Otomí community comes to mind:

> What we want is not so much to depend on the institutions, we have the capacity to take care of our family, our people, that we are the ones who are the ones to take care of them.

16 Initiative of constituent Nelly Antonia Juárez Audelo, in *Gaceta Parlamentaria*, Asamblea Constituyente de la Ciudad de México, No. 26-VI, Thursday, November 3, 2016.

17 The PAN deputy also proposed to eliminate the chapter containing the rights of these subjects and integrate them into two articles that would move from Title Four, On the

Distribution of Power, to Title One, called Bill of Rights. Carlos Gelista González, 2016.

> because an institution may or may not be concerned about a problem, but you, as an indigenous person, are concerned because we are experiencing the problem.... (Quotation taken from Lemos Igreja, 2005, pp. 305-306)

That was the initiative of the president of the Commission of Native Peoples and Neighborhoods and Resident Indigenous Communities. He and his technical secretary were not in favor of autonomy and tried to leave my proposal out of the draft opinion. I objected to this claim, clarifying that the project should include the initiatives presented in the plenary and referred to this commission, for its examination and vote among the members of the commission. They agreed to integrate it, but extracting from it the core issues of autonomy. I objected to this, pointing out that any change to my initiative would have to result from the vote of the majority of the members of the commission. At the last minute, we managed to get the fundamental elements of autonomy proposed in my initiative approved.

Once the chairman of the committee had presented the draft opinion, the secretary of the committee proposed to submit it to a vote in general, and then to discuss and vote on the particulars. I said that I would not vote in general, because its content could turn out to be totally different after the vote in particular. The point was discussed and it was agreed to begin by deliberating and voting on the particulars, article by article, trying to seek consensus. This was done with the first two articles, which we reworked together.

The sticking point came when it was time to discuss the issue of autonomy. The constituents of the PRD, PRI and PAN were opposed to instituting a regime of autonomy.[18] The PRD deputies resorted to the procedure of reservations with which they tried to eliminate all the provisions of my initiative on autonomy and territorial rights, but their reservations were rejected. Then they tried to evade the discussion on the issue, trying to break the quorum on the day of its discussion.

They agreed to discuss the matter on the last day we had for the approval of the opinion, since the majority of the Morena constituents would not approve the opinion if it did not include an autonomy regime.[19] It should also have

18 The commission was composed of 5 constituent deputies from the PRD, 1 from the PRI, 1 from the PAN and 5 from Morena.

19 I must say that Morena's fellow constituents on the Commission, Patricia Ruiz Anchondo and Bruno Bichir, supported the project at all times.

The presence of a large number of people from the towns, neighborhoods and communities at that day's session influenced the mood of the opponents. This presence was vital.

Once they agreed to discuss the autonomy proposal, the opposing constituents admitted that they rejected the provisions on territorial areas, self-government, competencies and budget. So we discussed point by point, which we summarize here. The Morena colleagues allowed me to defend the proposal; and on behalf of the opponents, the PRI deputy, Augusto Gómez Villanueva, took the lead.

The opponents said that they did not agree with instituting in the local constitution an order of self-government or self-government of the peoples. I replied: Autonomy is by definition self-government, and if we do not recognize that they can have their own government, we would be invalidating their right to self-determination. It would be a mockery. To the PRI deputy, who had been Secretary of Agrarian Reform during the presidency of Luis Echeverría (1970-1976), I argued that, as he well knew, the agrarian law had instituted ejido and communal self-governments for the administration of their lands; in the case of autonomy, it was a matter of recognizing the structure of government that the peoples determine for the conduct, administration and determination of the affairs of their territorial sphere. I also argued that in all countries where autonomy has been established, it has implied self-government. Furthermore, I added, the UN Declaration on the Rights of Indigenous Peoples identifies self-government with self-governance. The PRI deputy argued that it had no basis in the Federal Constitution, to which I replied that the Constitution ordered us to determine "the characteristics of self-determination and autonomy" and one of its characteristics is self-government. They ended up admitting, but instead of the term "self-government" or self-government, they established "the forms of political-administrative organization that the peoples give themselves". Which empowers self-government. I discussed this outside the hall with some of the members of the original peoples. They agreed with the formulation. And so it was.

The aforementioned partisan bloc was also opposed to establishing territorial spheres for the exercise of autonomy. It argued that it was inconsequent to leave out the territory, for several reasons: autonomy requires a space for its realization; therefore, it implies the organization of a territorial area with its own jurisdiction, in which the peoples can exercise government, justice and their

other cultural, socio-economic, etc. rights and powers. The territory, he specified, would be the sphere of organization and operation of their "political and administrative forms" and in which they would have jurisdiction. In addition, the original peoples and neighborhoods have a territorial basis and identity, and have been demanding their recognition, unjustly denied. They ended up admitting the inclusion of the territory.

They also refused to establish in the constitution the competencies and faculties of the autonomous territories, and proposed that their definition be left to the secondary law. We said that we did not agree, since, as experience in our country shows, secondary laws tend to reduce the scope of the rights established in the constitution. We argued that the issue of competencies was central, since it is what determines that the peoples can effectively exercise their rights in a comprehensive manner, by empowering them to make decisions for themselves in certain vital matters, many of which are currently under the control of the city authorities, and would have to be transferred to the peoples. For this reason, he said, it is necessary to indicate in the constitution some of the matters in which the towns can decide exclusively and those that require coordination with the city authorities. Autonomy implies political and administrative decentralization, he said. Therefore, we decided to establish in the local magna carta magna the list of powers that should be conferred to the towns, so that their substance would not be left to the discretion of secondary legislation. At the last minute, almost all the powers established in our initiative were included in the opinion.

The opposing constituents tried to leave out some important aspects such as, for example, the power of the towns to administer their community pantheons. I argued that it should remain in the opinion, since there is a vigorous movement of native peoples in defense of their communal pantheons and their right to maintain the administration of them, as well as the cultural, religious and community practices around them. For many native peoples (especially those who have suffered the expropriation and urbanization of their territories), the pantheon was the only - or one of the few - community assets they had been able to preserve. I stated that their claim was just; not recognizing it would be an injustice. Even so, they did not consent; probably because the PRD and the PAN had been promoting the transfer of the community cemeteries to the administration of the delegations, now mayoralties (Romero Tovar, 2010). I reiterated that the demand of the peoples was going to be manifested in the consultation; therefore,

it was more appropriate to leave it in the opinion. They did not admit it. And it happened that in 42 of the community minutes of the consultation the claim surfaced. This was reincorporated in the opinion and was finally included in Article 59 paragraph F, section I of the Constitution of Mexico City, as follows: "The administration and care of the community cemeteries is the power and responsibility of the original towns and neighborhoods."

Thus, after an arduous battle of ideas and arguments, which we cannot detail in this space, the Morena constituents succeeded in ensuring that the basic elements of the autonomy regime for the original towns and neighborhoods remained in the commission's dicta, although not as we would have wished.

On the other hand, my initiative to create the *fourth level of government* was rejected in the Commission on General Principles. I did not have the opportunity to participate in the session of this commission in order to defend it. Jaime Cárdenas, a colleague from the same parliamentary group in the Constituent, points out as one of the defi- ciencies of the Constitution of the City the absence of recognition of the fourth level of government (Cárdenas Gracia, 2017).

Consultation

The rules of procedure of the Constituent Assembly assigned to the Committee on Indigenous Peoples, Neighborhoods and Resident Indigenous Communities the responsibility of carrying out the consultations "as determined by international norms" (Article 22, section 8). The constituents of the commission designed the consultation protocol in accordance with ILO Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples. Once the constituents of the Commission approved the above-mentioned opinion, it was submitted for consultation to the peoples, neighborhoods and communities.

The approval of the consultation protocol took time. The PRD, PRI and PAN constituents wanted the consultation to be carried out by Mexico City government agencies or other contracted entities. We opposed this, arguing, first, that this violated the sovereignty of the Constituent Assembly; second, that it was up to the constituents of the commission to "carry out the consultations", as stated in the regulations; third, the opinion to be submitted for consultation was the product of the work of the commission and, being consistent with the principles of the consultation (informed, in good faith, prior to its approval in

the plenary of the Constituent Assembly), it would have to be approved in the plenary session of the Constituent Assembly.

The Constituent Assembly, free, based on dialogue and consent) obliged us to make it directly to the peoples and communities, without the interference of persons or organizations external to the constituent process, which could obstruct the free and good faith nature of the consultation.

After lengthy discussions, we reached an agreement that the members of the commission would be in charge of the consultation on the opinion containing articles 57, 58 and 59 of Chapter VII *Pluricultural City*.[20] Finally, given the short time we had to carry out the consultation (about a month) and the universe of subjects to be consulted, in addition to the fact that the constituents of the commission had to be in the plenary of the Assembly, since at that time the articles of the Constitution were being discussed and approved, we proposed that we ask the peoples, neighborhoods and communities to help us in the organization of the consultation, in an autonomous manner (Rodríguez Domínguez, 2019, pp. 228-232). That is, our duty was to guarantee the infrastructure for the realization of the community assemblies of the consultation (divided into three phases: informative, deliberative and dialogue/consent); to provide them with all the material and documentation to be consulted (the opinion of the Commission of Original Peoples and Neighborhoods and Resident Indigenous Communities of the Constituent, along with the protocol of the consultation and other materials), as well as the dissemination of the call and the consultation process. We asked the subjects of the consultation to support us in the dissemination and organization of the assemblies in their communities. In addition, a technical team of the Commission was created to support all the requirements of the subjects of the consultation. The constituents of the Commission dedicated all of Sunday (which was the only day that the plenary of the Constituent Assembly w a s not in session), part of Saturday or any other opportunity, to attend the consultation assemblies, especially the informative ones. In the deliberative assemblies, only the subjects of the consultation met (so that they could examine and deliberate on their own about the opinion to be consulted). Their participation in the organization of the consultation helped to ensure that 940 deliberative assemblies were held in such a short period of time, the minutes of which were submitted to the commission. Of these, 709 minutes approved the opinion without proposals for additions, and 231 minutes approved

20 It should be noted that the articles of the chief of government's draft Constitution were modified during the constituent legislative process. In the latter, the rights of the original

peoples and neighborhoods and of the resident indigenous communities were set forth in Articles 63, 64 and 65; in the Political Constitution of Mexico City they remained in Articles 57, 58 and 59.

the opinion in general, with proposed additions and/or clarifications. In total, 99% of the community assembly minutes gave their consent.

In some of the minutes it was stated that the consultation should have included the entire text of the Constitution. The Morenistas were of the same opinion. In the transitory paragraphs of my three initiatives, I stated that the Constitution of Mexico City will be understood as approved if it is endorsed by the original peoples and neighborhoods and the resident indigenous communities through consultation and consent. But this could not be achieved.

Another issue that lengthened the approval of the consultation protocol in the Co- mission was the binding nature of the consultation. We proposed that the results of the consultation should be binding for the plenary of the Constituent Assembly, that is, that once the consulted subjects gave their consent to the opinion, it should be followed by the plenary, and, therefore, could not be modified or denied. The deputies of the other parties said that this was unacceptable, that we could not force the rest of the constituents to assume the provisions of the consulted opinion. We replied that the members of the commission were representatives of the different political forces in the Constituent Assembly and that having approved the opinion, it was to be assumed that they did so with the endorsement of their bench; and that the changes and/or additions resulting from the consultation would be the product of dialogue and agreement between those consulted and us. In any case, he affirmed, any modification would have to be submitted to a new consultation in the plenary when the peoples, neighborhoods and communities had given their consent.

Finally, consensus was reached on the binding nature of the consultation, with the support of the constituent Porfirio Muñoz Ledo and the recommendation of the UN representative on indigenous issues, Victor Toledo. The fact that the Constituent Assembly assumed the binding nature of the consultation was an important triumph, since no constituent in the plenary session of the Assembly promoted reservations that modified the content of the consulted opinion, and even those who had some reservations withdrew them.

Thus, at the conclusion of the consultation, the proposals of the community minutes of the consultation were ordered and integrated into the opinion of the commission, and presented to the Plenary of the Constituent Assembly, where it was unanimously approved. No other opinion obtained such approval in the Plenary. This is explained, to a large extent, by the *binding*

nature of the consultation, as mentioned above. Also, only

above all, because of the strong legitimacy that the consultation gave to the opinion: an unprecedented event in our country.

Autonomy in the Constitution of the City of Mexico

While the City Constitution does not contemplate a fourth level of government in the political organization of the city, it does create territorial autonomies in Article 59 paragraph B, entitled "Self-determination and autonomy".[21] Such discordance is likely to be a matter of controversy. But it will depend on the actions of the original peoples to resolve it in their favor. Let us look at the provisions of the Political Constitution of Mexico City (2017) that institute territorial autonomy.

a) Territory. The Constitution textually establishes that "*autonomy will be exercised in the territories* in which the original peoples and neighborhoods are settled, in the *demarcations* based on their historical, cultural, social and identity characteristics". And, it adds, "In *their territories and for their internal regime*, the original peoples and neighborhoods have competencies and faculties in political, administrative, economic, social, cultural, educational, judicial, resource management and environmental matters". It also specifies that "In this *territorial dimension of autonomy*, social property, private property and public property are recognized and respected under the terms of the current legal order" (Article 59, B, 2 and 5, emphasis added).

b) *Political administrative body. The* original peoples and neighborhoods shall define their own *forms of political-administrative organization.* "The forms of political administrative organization, including the traditional authorities and representatives of the original peoples and neighborhoods, will be elected in accordance with their own normative systems and procedures, and are recognized in the exercise of their functions by the authorities of Mexico City" (Article 59, B, 7). It is understood that each *territorial demarcation* -which is constituted for the exercise of autonomy- will have a *political-administrative* body*,* which will

21 Differentiated autonomy formulas were established for both subjects of law: territorial autonomy was established for the original peoples and neighborhoods, while the resident indigenous communities "will exercise their autonomy in accordance with their internal normative systems and forms of organization in Mexico City".

shall be configured in accordance with the institutions, norms, authorities and forms of internal organization of the peoples.

And, in accordance with their self-determination, the Constitution adds, "No authority may decide the forms of coexistence and organization, economic, political and cultural, of indigenous peoples and communities; nor in their forms of political and administrative organization that the peoples give themselves" (Article 59, B, 6).

c) *Powers and competencies.* The Constitution recognizes a series of powers to the original peoples and neighborhoods to guarantee the exercise of self-determination and autonomy. The powers are specified in 14 paragraphs. In addition to these powers, the Magna Carta of the City indicates that they may have access to others indicated by "the corresponding law and other applicable ordinances" (Article 59, B, 8, from I to XIV).

d) *Budget.* It is stated that "the city authorities recognize this autonomy and will establish specific budget allocations for the fulfillment of their rights, as well as coordination mechanisms, in accordance with the law on the matter" (Article 59, B, 4).

So much for the constitutional framework of autonomy in Mexico City. Finally, the Mexico City Constitution mandates the creation of a body to implement policies to guarantee the exercise of autonomy", among other tasks (Article 59, M).

After the promulgation of the Constitution of Mexico City, the Office of the Attorney General of the Republic filed an action of unconstitutionality before the Supreme Court of Justice of the Nation (SCJN) of all the articles of the local Constitution referring to the rights of peoples, neighborhoods and communities, arguing that the consultation carried out was not adequate and that consequently 19 articles of the same should be invalidated. After analyzing all the documentation and information on the consultation carried out by the Constituent Commission, the Full Court of the SCJN considered that the consultation "complied with the requirements of the aforementioned convention [ILO Convention 169], since it was carried out in good faith and in a manner appropriate to the circumstances, with the purpose of reaching an agreement or achieving the consent of the proposed measures, as established in its text". The draft judgment was put to a vote and was "approved by a unanimous vote of eleven of the judges".

regarding "recognizing the validity of the legislative procedure that gave rise to the Political Constitution of Mexico City, on the grounds that the indigenous peoples and communities were consulted" (Sentencia Suprema Corte de Justicia de la Nación, 2017).

Conclusion

A Constituent Assembly is an eminently political space, made up of representatives of different political forces, ideological narratives, and projects for the country and the city. It is not, therefore, a uniform, neutral and smooth space, but a space for the battle of ideas and positions regarding the different themes of a constitution; it is a contest over the meaning and scope of the norms that should prevail in the constitutional text. In this context, the for- mulation of indigenous peoples' claims in the language of rights entails at least three intertwined risks: the omission of the key issues that are at the basis of indigenous claims; the decoupling of indigenous peoples' rights from the changes (political, economic and socio-cultural) in the structure of Mexico City, necessary for their realization; and the disarticulation of indigenous peoples' demands into a multiplicity or summation of rights, disregarding their integral character.

One of the core issues underlying the demands of indigenous peoples is to cease to be dominated and oppressed by the State and to exercise their right to self-determination and autonomy. With respect to this collective right, two basic positions were expressed among the constituents. One that admitted the recognition of this and other collective rights (already instituted in the federal Constitution, thanks to the struggle of the Zapatistas and other indigenous organizations), but without establishing the legal-political means or instrument to guarantee that the peoples could decide for themselves on the exercise of their rights, leaving the decision to the authorities or institutions of the city government. This was a heteronomous position that kept the towns in the same situation. The other position, which was the one we defended, was to institute a regime of autonomy in the Constitution, so that the towns could govern themselves and decide collectively on various issues that are central to them, establishing a relationship of coordination (and not subor- dination) with the city government. This position was established in the Constitution with the consent of the towns and neighborhoods consulted.

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Neggsed (Autonomy): progress and challenges of self-governance of the Gunadule people of Panama

Bernal D. Castillo

Introduction

One of the great strengths of the Gunadule people is their own conception of their autonomy. It is an essential part of the struggle for their rights. Since time immemorial, the Gunadule people have had their own institutions for the self-government of their territory, including their own political, legal, economic, social and cultural institutions - in addition to their own forms of social organization (norms regulating access, use, control and biocultural protection). The exercise of the right to self-determination includes the practice of autonomy, which is an inalienable right of all Indigenous Peoples to decide their own form of governance, and the right to free, prior and informed consent for any initiative that impacts their cultural, social, environmental and spiritual ways and means of life. The continuity of institutionality, a legacy left by the sages, is embodied in *Igardummadwala*, which is the administrative political platform of the Guna people (Guna General Congress, 2015).

There are many issues to be dusted off. The governments that have passed through history have not accepted the right of indigenous peoples to maintain their autonomy and this, as we well know, has been the case since the time of the European invasion, particularly the Spanish. On the contrary, the indigenous peoples ceded their lands rich in natural resources and biodiversity to the invaders at the point of deception, with the sword and with the cross.

The recognition of the autonomous rights of the Gunadule people has served as a model for other peoples of Abiayala (America) in their struggle for self-determination.

nomic. Until a few years ago, it has maintained its own autonomy with strong traditions and culture. However, with cultural changes that have reached deep into the communities, the integrity and sustainability of autonomy itself is threatened. The main question of this study is: what is happening within a comarca with the longest history of autonomy in Panama, what are the challenges it faces, and how is it trying to overcome them and seek alternatives to consolidate its autonomy?

The chapter will attempt to put into historical perspective the current situation of Guna autonomy in four major themes: the historical process of the territorial struggle of the Gunadule people, the structure of Guna self-government, Neggsed (autonomy) or land and territory, and the challenges to the autonomy of the Gunadule people.

The methodology applied was participatory, with the Gunadu- le authorities present in the region, in the meetings of the Guna Cultural Congresses in May, June and October 2019, and then in another tour in January and February 2020. Field interviews were conducted with youth and women in the comu- nities and participation in the Onmaggeddummagan (Guna General Congresses) in order to know the current perspective of the situation of the comarca and the demand to the Panamanian State on the ancestral lands of Nurdargana.

Historical process of the territorial struggle of the Gunadule people

The self-government of the Gunadule people dates back to immemorial times[1] with leaders who laid the foundations of the social, political and cultural structure, when the Onmagged (Congresses) were created. Later, with the arrival of the Spaniards, the Guna people organized and united to defend their ancestral territory during the colonial period until the end of the 19th century. In 1871, they managed to consolidate their territory with the creation of the Tulenega comarca, which laid the foundations of the background for Guna autonomy, being the first Latin American indigenous comarca (Castillo, 2018), when Panama was still united with Colombia.

1 Ibeler and his sister Olowaili, millenarian characters, together with their brothers, laid the foundations of the Gunadule people's struggle. For their part, Ibeorgun and his sister Olokikadiryai organized the bases of the social, cultural and political organization of the Gunadule people before the arrival of the Spaniards.

At the beginning of the 20th century, when Panama separated from Colombia in 1903, the Guna territory was divided in two, with one group remaining in Colombia and the other in the new republic. In the region of Panama, the Guna territory fragmented into several sites: Madungandi, Wargandi, Dagargunyala and Gunayala. It is in the region of Gu- nayala where the historical events of the Tule Revolution of 1925 took place, where the Gunas rose up against the Panamanian government in defense of their autonomy, their identity, their culture, their human rights and, especially, for the protection of women, since their clothing, the Mola, symbol of the Gunadule identity, was outraged (Howe, 2004; Wagua, 2007).

The first comarca originated in 1925, when the Gunadule unleashed an uprising in an attempt to break their ties with the Panamanian state as a response to internal colonialism expressed in an indigenist policy of assimilation and forced integration (Leis, 2005). As a result of this event, the Panamanian government included the indigenous issue at the constitutional level for the first time in 1925, in the legislative act of March 20 of that year and allowed the establishment of a de facto regional autonomy. Thus, the Panamanian government had the need to reform the 1904 Constitution to include the issue of the indigenous region, in order to seek peace with the Gunadule living in the Guayala region (Valiente, 2002).

After this conflict, the Panamanian government recognized the indigenous territories as Reserves (for example, with Law 59 of 1930, which created the San Blas Reserve), serving as a model for the territorial claims of other indigenous peoples in Panama. Later, under pressure from the Guna authorities, where many lands were not included, Law 2 of 1938 was passed, creating the San Blas comarca, known since 1998 as the Kuna Yala comarca (Valiente, 2002).

With Law 16 of 1953, the administrative and legal status was approved, recognizing the Organic Charter as the indigenous form of government, and recognizing the authority of the Guna General Congress and the figure of the Sagladummagan (General Chiefs) as the authorities of the region. Because of this legal action, today this is the model for the current indigenous comarcas, in which each comarca has an Organic Charter for the internal functioning of its self-government in the region. Later, in the 1946 Constitution, there is a chapter on peasant and indigenous collectivities, which provides that the State undertakes to

The reservation of lands in favor of indigenous communities, in addition to other commitments in political, economic, social and cultural matters (Valiente, 2002).

Since the late 1960s and early 1970s, induced by the military government of General Omar Torrijos and under the influence of the Sagla-dummad or Guna Cacique Estanislao López (who traveled to the various indigenous regions), a process of permanent dialogue was carried out with the rest of the indigenous peoples to settle them in towns (Alvarado, 2001). Indigenous congresses were also organized where the delimitation of comarcas was requested. The presence of Estanislao López helped other leaders to get to know the organization system of the congresses and the figure of the caciques. Thus, little by little, the other indigenous peoples began to introduce changes in their political and historical organization by adopting the Guna model of the congresses. The presence of Sagladummad (Cacique) Estanislao López was vital for the rest of the indigenous peoples of the country to learn about the Gunadule form of self-government, since this sagla, knowing the Guna and non-Guna cultures, spoke himself to the other leaders, telling them that it was necessary to unify their territories so that they could be legalized before the State, and thus be able to develop indigenous self-government in Panama. This influence led to Estanislao López being appointed by the Panamanian government in 1975 as the National Cacique of the 5 Indigenous Peoples of Panama until his death in 1982; a unique appointment in Panamanian history.

Self-governance structure of Gunayala County

The regional government of the Gunayala comarca is composed of the Guna General Congresses (the Guna General Congress, which is the political-administrative unit, and the General Congress of Culture, of a spiritual and cultural nature), as the highest authorities of the Guna people of the Gunayala comarca. In the exercise of its functions, the regional government has elaborated from within its assemblies a normative legal document for the comarca that brings together all the important aspects of customary law, with the aim of being recognized and approved by the Assembly of Deputies as national law, thus reem- phasizing Law 16 of 1953, which currently governs the comarca. This 2013 document called *"Gunayar Igardummadwala"* (Gunayala Fundamental Law), is a good example for the codification of the normativity of an indigenous people. This law would replace Act 16 of 1953, which does not contain the aspirations of the people.

gunadule. This Guna Law arises from the debates in the Assemblies and communities, and has not yet been approved by the State. However, the Guna authorities apply it in their territory "de facto" (Castillo, 2005), and in some indirect way, the Panamanian government recognizes this internal regional law.[2]

The Guna Fundamental Law, which is the governing law of the comarca, states that the Comarca Gunayala constitutes a political division whose organization, admi- nistration and functioning shall be subject to a special regime established in the Constitution of the Republic, in this Law, and in the Statute of the Comarca (On- maggeddummagan de Gunayala, 2013).

The socio-political structure of the Guna people in the Gunaya- la comarca is based on the norms of the Gunayar Igardummadwala (Gunayala Fundamental Law):

- Onmaggeddummad Namaggaled: General Congress of the Guna Culture. The highest authority of cultural and spirituality whose function is to establish the cultural and identity policies of the Gunadule people.
- Onmaggeddummad Sunmaggaled: Guna General Congress. Maximum authority of political and administrative character whose function is the relationship with the Panamanian State for the development projects that enter the region and controls the finances of the comarca.
- Onmaggeddummagan: General Gunas Congresses. The two Gunayala Congresses mentioned above.
- Sagladummad (Chieftain)/Sagladummagan (Chieftains): Person or persons legally representing the highest authorities of Gunayala, which are: Onmaggeddummad Namaggaled and the Onmaggeddummad Sunmaggaled, both composed of three chieftains. The selection of the Sagladummagan (Chiefs) in both Congresses is determined by the 49 communities of the comarca through the general assemblies.

2 For many Guna specialists, the fundamental law will remain unapproved by the Panamanian state for many years to come, as it reflects Gunayala's regional autonomy in self-government and the definitive demarcation of the comarca's boundaries. Currently, the disagreement of tourism entrepreneurs and Panamanian officials prevents the recognition of the original boundaries of the region. This "more autonomous" recognition is necessary in order to avoid depending on State regulations, which are often more limited.

- Neggwebur Onmagged: Local Congress. First authority of each community or village. It is constituted with the full participation of the members of each community.
- Neggwebur/Gwebur: Community. Conglomerate of people living in a territory (island or continental part) delimited under the authority of a sagla and onmaggednega (the house of congress), with characteristics of relative autonomy with reference to its similar, and recognized as such by the Onmaggeddummagan.
- Sagla: Person who represents the main authority in each community or village, who during the session of Onmaggeddummad Sunmaggaled brings the vote of his village to the plenary.
- Delegate/delegates: Persons elected in the plenary of each local congress and who represent their community in the deliberations of the sessions of the Onmaggeddummagan.
- Statute: Gunayala Statute, set of rules implementing the Gunayar Igardummadwala.
- Babigala: Guna history, a set of treatises that establish the spirituality of the Guna people.

Law 16 of 1953 establishes that the superior administrative authority on the part of the Panamanian State is the "intendant", who has the category of "governor" as in the rest of the Panamanian provinces, although this mandate almost does not govern in the region since it is a symbolic figure in front of the authority of the General Guna Congresses. The decisions made in the Guna General Congresses, which in general terms are constituted by the General Assembly, are mandatory for all authorities and communities in the comarca and cannot be contrary to Guna social, cultural and religious values (Onmaggeddummagan de Gunayala, 2013).

However, due to the changes that are taking place in the structures of self-government in some Guna communities, a new figure has emerged below the hierarchy of the traditional sagla, the sabbindummad, who would be the administrative sagla (chief), whose function is to execute and elaborate the projects of the community (Castillo, 2005). In the more acculturated communities,[3] the sabbindummad is

3 Acculturated communities are those in which the "traditional" sagla does not exist or, if it does exist, it is relegated to the background; the main role is played by the administrative or political sagla, that is, the sabbindummad.

the highest authority in the community, even though he is not a traditional sagla (although he does know the culture, history and problems of the community). This change occurs for two reasons: first, because of the changes that Guna society is facing with the gradual loss of identity in these communities, which is now being extended to the rest of the Gunadule communities; second, because of the need to deal with the administration of cooperation projects that many government and bilateral institutions present to the comarca.

The General Congress of the Guna Culture, as the highest cultural authority, several years ago began to promote the rapprochement with the other Guna comarcas and the Guna populations in Colombia to strengthen and dialogue on the history and sacred songs. With this initiative, the Gunadule Nation Meetings were born, with the purpose of strengthening the political, cultural and spiritual autonomy of the five (5) Guna territories from Panama and Colombia. This is an initiative that began in 2006 in the community of Maggilagundiwar, where the leadership, spiritual guides of the Guna peoples of Madungandi, Wargandi, Dagargunyala, Gunayala, Maggi- lagundiwar (Arquia) and Ibgigundiwar (the last two from Colombia), gathered in an event that has become known as "We sing not to die" (General Guna Congress, 2009). Since then, the authorities of the Gunadule Nation of Colombia are participating in the Assemblies of the Guna General Congresses.

The two General Congresses, through their cultural and administrative entities, are a duality of power: each has its clear objectives on where to influence the life of the Guna people, and both have been working in coordination, without interference between them. When there is an imbalance in governance, the Congress of Culture can make decisions like the administrative General Congress to direct the destinies of the comarca, as has already happened on several occasions, since its legitimacy is based on its cultural and spiritual character, which is the basis of life of the Guna people. In addition, they are the ones who choose the authorities of the Guna General Congress when there are changes of power or when there is a lack of authority in the Guna General Congress.

The Guna authorities are creating new commissions and secretariats for the proper functioning of the region by strengthening its autonomous government.[4]

4 These secretariats were created with the objective of decentralizing the work functions of the

traditional authorities, but they have hardly fulfilled their role due to the lack of planning in their service tasks in the communities.

- Secretary of Tourism.
- Secretariat of Land Transportation.
- Secretariat of Maritime Transportation.
- Secretariat of Food Security.
- Court of Justice Commission.
- Anti-Drug Commission.
- Secretariat of Territorial Defense.
- Legal Counsel.

Likewise, both Guna General Congresses have created an Institute[5] for each congress: the Institute for Research and Development of Kuna Yala (II-DKY), on behalf of the Guna General Congress and the Institute of Cultural Heritage of the Guna People (IPCPG) of the General Congress of the Guna Culture, both with the purpose of promoting self-management projects in the comarca.

Neggsed (Autonomy): land and territory

To speak of land and territory for the Gunas is to speak of their autonomy, of directing their own destiny, their self-government, of having their own territory and life plan. As the wise Gunas would say: *"We an nabba, we an nega"* (this is our land, our territory, this is our home). The conception of land, territoriality and autonomy are described as complementary and oriented towards an approach of protection, custody and rationality of use that excludes any action of exploitation and domination. Through various Guna stories, such as the story of Ibeler and his brothers, the struggle for their identity is narrated against people who subjugated their roots.

The social structure of the Gunadule people has ancestral roots, it is based and built on the *nega* model, a word that means house, home, headquarters.

5 The Institutes are the NGOs of the Gunas General Congresses. They are "autonomous" and one of their functions is to raise funds. However, they do not have budgets for their functioning and are not decentralized; they depend on the decisions of the county authorities for the progress of their work. The Guna Heritage Institute has experience from previous years, since it was originally founded as the Koskun Kalu Research Institute. Its directors include a traditional authority and professionals who have collaborated for its proper functioning in the communities. It is the only institute that has a technical team of professionals.

that is, the gunadule social organization has the shape of a house. This symbolizes unity, participation, strength and solidarity (Pérez, 1998).

What is Neggsed (Autonomy) from the Gunadule people's conception: These concepts are based on "massered iddoged" profiles, which refers to "wargwen negseed", "bundor gannarbagwa na wargwen neg aggwed". Nega (house, home, territory), in turn, is grounded on another symbol - which refers to the absolute unity between parts:

- "Being a man or being a woman" guarantees the capacity to reveal strength and self-righteousness in one's own home, which translates into being a subject. The "house = territory" leads us directly to a delimited land, which is oriented towards the great house that is Nana Olobibbirgunyai (the mother who dances, who turns, the mother earth).
- Without a house, no one can educate his children as he wants; without land, no one decides according to what he wants, but according to the criteria of the one who lets him live in his house or lends him his house or rents him his land, the Guna grandparents will say. That person who acts under the principles of the creditor, for the Guna, falls into the category of "eigwa", "wileged" (poor, handicapped, lacking...).
- When one has a house or land to build it on, one can freely choose one's friends, one can lead one's children to follow in the footsteps of one's grandparents, to consolidate the present and to trace the future. Then, the things one owns become absolute property and one can value them, celebrate them, even stop enjoying them or change them with full freedom. In this sense, the house (territory, home, land) relieves the full consciousness of ownership and allows multidimensional enrichment that can be continued by new generations. (Congreso General Guna, 2015).

The Gunadule people maintain a solid cultural base to carry out their transformation or management reform of the General Congresses. It only needs to consolidate and implement its *negseed/political* vision, which has its fundamental basis in *Ibeler* and *Ibeorgun*, and in the concepts of:

- *Wargwen negseed*: it is the awareness of one's own identity, of being the owner of one's own house and, therefore, of the rejection of all kinds of tutelage and subor- dination. It is the proclamation of the right to self-determination.

- *Bulagwa negseed*: the unity of the hut's poles is the symbol of a model of society where no one is excluded, where everyone has a responsibility and a value. In other words, knowing how to choose quality leaders. In the search for alliances, unity, and coordination between different *galumar*.[6]

In the Gunayala comarca, land is collectively owned according to Law 56 and the Fundamental Law, and cannot be sold or alienated. When there is a boundary problem in the territory, the Guna General Congress acts with the competent authorities for its solution, for example, to address issues such as the invasion of settlers (non-Guna) within the boundaries of the region. On the other hand, at the communal level, the community has its communal plots for its crops, and each person also has his or her plots, which are passed down from generation to generation. According to Guna tradition, the woman is the heir to the land, since it is the woman who will bring her husband to work the land, once her father dies. Likewise, there is the sale of land among the community members of a plot or an island, as long as it has the authorization and recognition of the communal authorities; and it cannot be sold to a foreigner.[7]

Anmar Nuedgudi (We are living well)

For the Gunadule people, the concept of well-being is *"Anmar Nuedgudi*"[8] (we are living well), within the collective. For the Guna, their welfare is collective: they support each other to build a house, in the plots, in the sacred ceremonies - they work for the Guna, *Anmar Nuedgudi*, which means:

> In this land we are well, we own the land, we have to cultivate, to hunt, to look for our medicine, to fish, whenever we want, without the "other", a foreigner, come to usurp our territory (*We nabba neggi an nuedgudi, we anmar nabba, anmar nabba nigga inmar digega, anmar nainu nigga arbaed, ibdur- gan amied, ina amied, ua amied, waimar anmarga sogosuli, we nabba anmargadi*).[9]

6 The galumar are sacred sites or sites of wisdoms where the wise Gunas gather for their joint decision making. Site not to be desecrated; fortress; protected area.

7 However, what has historically prevailed is "family nainu agriculture". Personal communication Geodisio Castillo, agroecological researcher on ancestral and traditional knowledge (05/01/20).

8 Gunadule people, also say "An Yeeriddodisaed, anmar yeeriddodisaed -be happy, we are happy".

9 In-house interpretation and translation.

It is different from the cities, where everything is paid for with money - to eat, to buy a house, among other things.

Threats

The Babigala[10] and the historical memory is the inspirer of the Guna identity and of this holistic vision of life. Onmaggednega (house of the congress) is an expression of this integrality of life. Because it is there where all aspects of life are raised, lived, thought and confronted.

Therein lies the strength of the Gunadule people, in their culture that forges their autonomy, governing their own destiny. However, there are threats surrounding them to destroy their culture, their territory, their social and environmental structure.

In recent years, the extractive capitalist economic system has entered more strongly into the communities. The economic individualism, the acculturation and the introduction of different values weaken the Guna social structure, which drags multiple imbalances and deficiencies that in some aspects have tended to be overcome and that, in others, on the contrary, survive or are worsening. To want to fragment the Guna identity is to impoverish and weaken it.

Economic dimensions of Guna autonomy

To understand the current situation in Gunayala County, it is important to analyze it from a holistic perspective, where the structures of self-government are modifying their internal regulations to face the capitalist and neoliberal market that is changing the social, cultural and political life in the Gunadule.

Based on the cultural concepts and taking into account the experiences of the General Development Plan of the Comarca,[11] the General Guna Congress

10 Babigar or babigala. Path of Baba and Nana; treatise of Baba and Nana, covers from the attempt to explain to Baba and Nana, the creation of the universe, to the definition of the human being, his role in the path and the development of Mother Earth.

11 General Management and Development Plan for the Gunayala Comarca, elaborated by the Kuna Yala Wildlife Area Management Study Project (PEMASKY) and approved on November 7, 1987 by the General Congress as a Biosphere Comarca in the community of Assudub, Resolution No. 3, currently known as the Nargana Corregimiento Wildlife Area.

and the General Congress of the Guna Culture authorized the formation of an interdisciplinary team of Guna professionals to elaborate the Gunayala Strategic Plan, whose objective is to be a guiding document for the endogenous development of the Gunadule people. This is a document discussed with the communities of the comarca (51 communities), who were the real decision makers of the situational strategic plan. Thus, the plan was approved by the Ordinary Assembly of the General Congress in 2015, in the community of Agligandi.

This current reality of the Gunadule people is well diagnosed in the Gunayala Strategic Plan 2015-2025. Five axes are established: autonomy, governance and territory; Mother Earth (Nabgwana) and its natural resources; education, culture and spirituality; health and traditional medicine; and ecology and sustainable development. The document also sets out challenges and goals for a better tomorrow with its own culture, strong and respectable like any other nation in the world, and thus strengthen its autonomy.

The Gunayala Strategic Plan 2015-2025 (Guna General Congress, 2015) indicates that the first axis is to "foster and promote respect, recognition and strengthening of institutionality", which is not only limited to their various forms of internal organization, but also to the norms that regulate access, control and protection of the territory, lands and natural resources, in addition to their own justice and decision-making systems. It is also established to *guarantee territorial governance*, strengthening traditional practices of justice administration, and to achieve the consolidation of mechanisms or procedures for consultation and full and effective participation in projects within the Gunayala territory.

The second axis proposes to "promote ancestral knowledge and environmental and territorial management to renew the solidarity economy and an environmentally sustainable and resilient region to the effects of climate change". The third axis indicates "contributing to educational, cultural and spiritual development as a right, a factor of cohesion and identity and a transforming force in society, developing the human potential of the Guna population". The fourth refers to "the promotion of ancestral knowledge and conventional medicine, interacting for the development of quality health in the Gunayala region". The fifth is to "generate opportunities and welfare for families and community enterprises by developing and implementing a policy of food production and sovereignty.

Based on the General Development Plan of the region, the region is

moving towards the consolidation of its autonomy in several aspects and, therefore, it has been able to consolidate its autonomy in a number of areas,

is generating complementary bases so as not to depend on the national government administration for the self-management of the comarca. To this end, they have reorganized their self-government structure with the creation of Secretariats. One of them is the Secretariat of Tourism, whose objective is to plan and organize the actions for the development of a self-management economy from a cultural point of view. However, implementing this vision has brought conflicts with the national government for trying to control the waters of the area, since the territorial sea is controlled by the Gunas to develop their tourism, their commercial maritime market and, especially, to try to be owners of their sea and fish without the intervention of foreign people (unlike other regions of the country, subordinated to the government and fishing companies). Also, the land and maritime transport secretariat is another form of territorial control in the region, since only the Gunas can transport passengers and goods and sell products coming from the city and vice versa.

Controlled tourism

Tourism is the new trend in which the Gunas obtain their economic income, mainly in the western sector of Gunayala, where the territorial and administrative control of tourism is carried out by the Gunadu- le themselves. There are also small hotels in the communities further east of the comar- ca. Tourism in Gunayala is controlled and regulated by the Guna General Council and the local community, where visitors stay in hotels and cabins owned and managed by the Gunadu- le.

The arrival of visitors to the region, mainly "beach and sun tourism", has had a great impact, especially in the creation of new hotels and cabins as sources of employment. Hence the proliferation of tourist cabins (whether family, group or individual). However, it has brought a myriad of problems (Congreso General Guna, 2015), among others, those described below: unscrupulous and even illegal intermediaries who charge tourists for services provided on the islands, but do not report benefits to the islands or communities; garbage disposal problems, particularly solid waste generated by the activity, which bring pollution and health problems; and the presence of floating hotels (yachts) that are generally from private foreign companies that offer services not reported to the com- munities or to the Secretary of Tourism of the General Guna Congress.

Currently, tourism has become the main economic activity generating income for the comarca. According to the administrator of the Guna General Congress, the Guna General Congress collects approximately $2.2 million per year (Moreno, 2018). To enter the comarca, a tax is charged to both nationals and foreigners and to the Guna themselves at the ports of embarkation. Also, the Guna General Congress itself, given the tourism boom, is promoting its tourist packages in its own tourist island called Anmardub and with its income will ensure the administration and operation of the tourism policy that should govern the region.

These charges have been a trigger for criticism from national authorities and Panamanian citizens themselves, who state that they are in Panama and should not be charged these taxes. However, the Gunayala authorities state that these taxes serve to consolidate their self-government for local self-management, since, not being a municipality, the Panamanian governments do not give public funds to the Gunayala region, and for this reason they have hardly developed the area. Despite the presence of regional directorates of ministries, there is a lack of employment and production roads, the schools are in poor condition, the health centers are deteriorated and suffer from a lack of medicines, and there is a lack of maintenance of the ports.

For the communities, this economic income has been useful for the maintenance of their ports, and the profits are distributed at the end of the year to carry out activities for the benefit of the children and the community. They have also been useful to help the communities in the event of a natural catastrophe in the community or another town -fires, floods- which has already occurred in the comarca. They have also been used to pay for the maintenance and personnel costs of the congressional liaison office, located in the capital city and the Porvenir headquarters. In short, it is a form of enforcement of their political autonomy in the region.

Planning and a tourism policy are needed in the region for its sustainable development. Likewise, the Secretariat of Tourism has promoted training for tourist guides on various topics such as garbage management, culture, history and the structure of the Gunas General Congresses. Associations of owners of hotels, cabins and tourist boats have also been created to promote tourism.

Control of inland and maritime transportation

Internal access to the different communities is by three routes: land, sea and air. In order to provide land and maritime transportation services, these must be of Guna origin and operate under the supervision of the Guna General Council.

By sea, they travel from island to island by boats or commercial pangas of the communities that offer this service. It is a recent service and permission and endorsement must be obtained from the executive board and the maritime secretariat of the Guna General Congress to operate in the region.

There are also commercial boats, both gunas and non-gunas, that trade products and come from the province of Colón. They have international maritime communication used by Colombian coastal vessels that trade in the Colombian Caribbean. These Colombian ships, called "Canoas", bring food and commercial products to the area. Flights to and from the comarca are only available in four communities, due to the high cost of fares. Therefore, the vast majority of the villagers travel by boat.

With the improvement in 2007 of the road that connects the comarca with the rest of the country, it can now be used by four-wheel drive vehicles. In 2011, the Guna Congress established the Secretariat of Land and Maritime Transport, which proceeded with the organization, planning and operation of the activities. Subsequently, in 2014, the plenary of the Guna Congress decided to separate again both activities into Land and Maritime Transport, in order to optimize and give greater relevance to both activities (Guna General Congress, 2015).

Another road, the Mordi-Muladub Production Road (in the process of a feasibility study), will also exist in a few years, located to the east of the region. The Mordi-Muladub Road would provide access to the Puerto Obaldía and Dubwala townships and part of the Ai- ligandi township. It is well known from the experience of the El Llano-Carti road that environmental, social, cultural and economic problems arise behind an open road for which a strategy must be sought (Congreso General Guna, 2015). Likewise, once it is built, there is a proposal to extend this road to other nearby communities.

Molas

The "mola" is the traditional clothing of the gunadule woman, handmade, and is the symbol of the Guna identity. The woman, not having a steady job, uses this art that she learned from her mother and grandmother to economically support the family. Currently it has been marketed on a large scale nationally and internationally. This sale has somehow served to educate many young Guna people in the city.

Most molas are produced for sale to the city of Panama, either directly by urban buyers who come to the islands or by one of the molas cooperatives. Also, due to the tourism boom with the arrival of cruise ships and yachts, molas are being sold, especially in the western sector. In conversation with the women, they tell us that sometimes women from other sectors come to sell their molas (some from the Usdub communities) during the cruise ship season, from October to April.

This economic income of the Guna women is currently being threatened by unscrupulous businessmen who buy molas in large quantities at low cost, and then sell them at higher prices to tourist agencies or other countries. Countries such as Costa Rica and Nicaragua sell imitation molas made there in an uncontrolled manner, without the Guna General Congress or state entities taking action to protect the native mola, which is one of the symbols of Panamanian nationality. There are also foreign fashion designers who hire Guna women to sew dresses with molas designs for their fashion shows, and then sell them at high prices in their stores.

Another great challenge in the art of the mola[12] is that its designs are used to commercialize it. For example, the liquor company of the former president of Panama, Juan Carlos Varela, placed designs of molas on its bottles of "Herrerano" seco, for which the Guna General Congress had to sue. In the end, the lawsuit was in favor of the Guna people. Also the company NIKE tried to commercialize the design of the mola, the "Air Force 1 Low", on its sneakers. Finally, this attempt failed in 2019 (Congreso General Guna, 2019), where it is observed the capacity of

12 Currently, the design of the mola has gained importance among the four gunas nations' authorities, as they have come together to defend and promote the mola. However, there are companies such as the Motta Foundation, which have opened museums of the mola for commercial dissemination.

Guna culture to protect their sacred knowledge, which at the same time consolidates their cultural autonomy.

Other economic income in the county

Traditionally, coconut represented the most important product in the region's economic income and for exchange in the Guna- dule communities. Today its value has diminished, but it is still one of the forms of economic income for households and communities.

The Gunayala comarca has other complementary income that has served as the basis for the maintenance of its infrastructure in the region and in the city. In this regard, the comarca negotiated with the transnational company Cable & Wireless (without government intervention), through the ARCOS 1 project, a 25-year contract to run a fiber optic network through the Gunadule territory.

In summary, the economic income circulating in the Gu- nayala comarca can be divided into the following items: circulation taxes on Colombian, Guna and coastal boats; taxes or contributions from public and private officials; economic contributions from the communities in each session of the Guna General Congress and the General Congress of Culture; taxes on Colombian, Guna and coastal boats for the use of the dock; use of the ports of embarkation for each community member or tourist that arrives; sale of seafood; granting of permits and fines to each community member; and the collection of taxes from small commercial stores in each community.

There are no current data on non-governmental organizations (NGOs) or international organizations that offer monetary donations in the region. On the part of the Panamanian State, it is the Corregimien- t Representatives (B/.40,000 annually) and the governmental entities that manage their annual budget for projects in the comarca.

Autonomy challenges: identity and transculturation

The Guna comarcas have a deep sense of identity and a great awareness of the value of their way of life; they keep alive their cultural traditions, such as the use of their language and songs, their spirituality and philosophy of life, which are the basis of their culture.

The Guna have a close relationship with the forest; for the Guna, the forests, the land and the water have life.

The Gunayala region, like other indigenous regions of Panama, faces a number of social problems such as migration, loss of identity among young people, poverty, unemployment, malnutrition, school dropout rates, neglect of housing maintenance, drug addiction, increased teenage pregnancy, domestic violence, lack of recreational programs and areas, and lack of training centers.

At present, local authorities are experiencing changes in their self-governance. One of these factors is cultural change: they are in a process of acculturation of their traditional structures, which are based on a Guna socio-cultural organization that goes back hundreds of years. Guna communities, which were antagonistic to contact with non-Guna visitors and commercialization, are opening up to give way to intense commercial exchange to promote community development.

According to our field research and conversations with local authorities, they tell us that there is a weakening of culture due to the impact of cultural globalization. The use of solar panels has led to the proliferation of television and cables in the communities. In some communities they have electricity 24 hours a day and most of the community members pay for their electricity. It is necessary to carry out a pertinent study on the basic need for electrification in the region, since electrification has reached the coast of the region through the highway sector. It is important to mention that the Guna General Congress decided not to accept the electricity project of the electric transmission line that would come from Colombia to Panama through the eastern sector of the comarca, and that would pass through the territory of Gunayala. The refusal of the Guna General Congress has been, among other reasons, because the opening of the road and the electric transmission line would affect the sacred sites, and because, by opening a road, the guerrillas, paramilitaries and drug traffickers would arrive more easily and would have a greater presence.

The use of cell phones and other means of communication in one way or another have diminished the Gunas' interest in their cultural heritage; for example, many do not attend meetings or songs in the local congress, preferring to watch television programs. They show little interest in appreciating their culture, listening to

The Guna people are more aware of their history and sacred songs, since their parents talk to them little about their history and, especially, because of the presence of schools and churches in the community, which have changed the mentality of the Guna people. This is also seen in the construction of concrete houses instead of traditional houses; more people go to health centers instead of the *inaduled* (botanical doctors); funeral ceremonies are carried out in a festive manner (when someone dies, their relatives or relatives offer food to all those attending the cemetery or the wake).

One of the greatest challenges is with respect to youth and children, since the youth and children are the future leaders who will steer the ship of Guna autonomy. There is a great difference between the youth who study in the comarca and those who study in the capital city. The youth who have studied in the region, unlike the youth who live in the cities, have in their ideological and cultural formation the feeling of caring for and protecting nature.
-They have lived on their land, know the language and practice the cultural manifestations. Young people who study in the cities are more prone to the loss of cultural identity and to be absorbed by the dominant culture, due to the lack of cultural policies in the programs of the Ministry of Education to guide them on indigenous culture. Some take this "fashion of cultural globalization" to the communities, where it can be observed that they bring televisions, radios, DVDs, CDs, cell phones, computers and sound equipment to feel in a city environment, and the young people living in the communities imitate them.

However, not everything is negative, since there is a group of young people, some of whom were born in the region and others in the city, who are strengthening their roots by organizing themselves into youth associations, theater, singing and dance groups, learning the sacred Babigala chants together with the sages in the capital city and using virtual platforms for the dissemination of culture. Similarly, the Gunas General Congresses are implementing Intercultural Bilingual Education to strengthen the foundations of identity in the Gunayala region, which began in the 1970s at the initiative of Guna teachers. In 2014, the Intercultural Bilingual Education Project was inaugurated with the aim of strengthening the Guna culture and language, promoted by the regional authorities, which today has the support of international agencies such as the Spanish Agency for International Development Cooperation (AECID).

Field production

One of the great challenges for indigenous peoples in strengthening their autonomy is agricultural and marine production. In the Gunayala region, the communities face a situation of instability that is transforming their social and economic patterns, as many have stopped working in the fields or on their plots of land (nainugan) for their daily sustenance. This has led to dependence on the province of Colón and the capital city and on ships arriving from Colombia, where most of the communities buy basic necessities such as rice, bananas, plantains and sugar, which in the past were products they obtained from their crops. Today, these products are acquired from the boats that arrive at their coasts, or vehicles that arrive by land. This situation is due to the lack of interest of young people in working in the fields, the desire to obtain easy money, study to become an educator or work in government institutions such as health, police or other state entities, as well as work in tourism as guides, rent boats and dedicate themselves to the sale of molas, leaving aside agricultural and fishing work.

One of the consequences of not working in the fields is the purchase of products on credit by the population from Colombian ships, and the replacement of natural products by many canned foods.

In this regard, the Guna authorities have created the Food Security Secretariat to support agricultural production in the communities.[13] It is important to note that without the development of agricultural production and the use of medicinal plants, a people cannot be independent of the commercial system. Only by achieving agricultural and maritime production of their own food and through the use of their botanical medicines for village healing can a village be considered autonomous.

13 With the COVID-19 pandemic, it was observed that agricultural production was vital in the region, since communities with strong agricultural roots offered products from the countryside to other communities that were running short of food. Therefore, I believe that there was no adequate public policy on the part of the government, which only limited itself to bringing bags of canned food that lasted only a few weeks, instead of distributing seeds to increase agricultural production and not depend on the purchase and sale of products.

From the political point of view: demands to the Panamanian State for the reconquest of Nurdargana's ancestral lands

The boundary issue has arisen since the creation of the Panamanian state in 1903, which divided the Guna people into two large regions, Panama and Colombia. This boundary problem still persists, aggravated by the invasion of colonists from Santa Isabel, Santeños and Colombians, which damages the territorial integrity of Gunayala. Today, this problem is even worse due to the sale of the ancestral lands of Nurdargana (west of the comarca) by the Panamanian government to national and foreign businessmen (Casti- llo, 2020). For this reason, the Guna authorities saw the need to sue the Panamanian State to recover these lands that were not included in the laws of 1930 as an indigenous reserve, of 1938, when the San Blas comarca was created, of 1953, by which the San Blas comarca was organized, and of 1957, when it was declared an indigenous reserve and the lands were declared unadjudicable (Guionneau-Sinclair, 1991). For the Gunadule people, these laws are fundamental to recover their ancestral lands.

In 2009, with Cacique Gilberto Arias, the Guna General Congress decided to authorize the legal team of the Guna Congress to file all legal appeals for agrarian reform before the Panamanian Judicial Courts in order to claim the incorporation to the Gunayala comarca of approximately 5 thousand hectares in the Gardi region, where the Guna communities of the area have occupied, used and exploited the land and natural resources for more than two centuries. Likewise, the Guna General Congress decided to present a petition to the Inter-American Commission on Human Rights, based in Washington, D.C.

The complaint of the Guna General Congress to the Panamanian State before the Inter-American Co- mission of Human Rights (IACHR)[14] is due to violations to their ancestral territorial rights enshrined in the American Convention and

14 There is a precedent of indigenous land conflict with the Panamanian State. In the case of the Gunas of the Madungandi Comarca, their main territorial problem is the invasion of settlers on their ancestral lands. However, a demand was made to the Panamanian State to pay compensation for the territories flooded during the construction of the Bayano Dam in 1976, a demand that was taken to the Inter-American Commission on Human Rights (IACHR). One of the petitions was the eviction of the settlers from the territory of the Kuna de Madungandi Comarca. It was not until 2015 that the Panamanian State committed to pay due compensation to the Gunas of Madugandí and Emberá de Bayano.

other human rights instruments. Considering that Panama has not approved Convention 169 of the International Labor Organization (ILO), many land claim petitions have not been recognized by the Panamanian State.

Therefore, the Guna General Congress demands: that the Panamanian State be ordered to stop the private titling of the communities' collective lands; that all concessions or construction permits within the conflict area be suspended; and that the Guna communities be allowed to make use of their traditional lands.

Since 2009, the legal team of the Guna Congress filed 20 opposition processes before the Panamanian agrarian reform in which 15 land title applications and more than 20 oppositions were identified. Likewise, at the local level, title appeals were filed in accordance with Law 72 of 2008, and these appeals have been suspended and therefore a claim of unconstitutionality has been filed before the Supreme Court of Justice. The Inter-American Commission on Human Rights has been kept constantly informed of all these legal proceedings.

The Commission took a long time to study the documents and prepare a report on the admissibility of the Congressional land rights violation complaint (indicating that it was aware of it or was investigating it). This report was referred to as "Admissibility Study Status" and the complaint was known throughout as Petition 1528-09.

By means of admissibility report 125-20 (where it is considered that there may be a human rights violation), the Commission finishes evaluating the evidence and moves the old petition 1528-09 to the category of "Case 13997- Comu- *nidades Gunas de Gardi de la Región de Nurdargana VS Panamá"*, that is, it is now considered an international case and initiates the process before the Commission. The Commission must, after a period of six months, issue a report called "report on the merits or recommendations". Within this period, the Panamanian State may present additional arguments and the petitioners may present their additional arguments, but may not present new facts or human rights violations not contemplated or not included in the report on the merits.

The Inter-American Commission on Human Rights notified the Guna General Congress on June 23, 2020, granting it four months expiring on October 4 and two additional months of extension expiring on December 23, 2020 to submit additional evidence and documents called additional arguments. The verdict will be rendered in 2021.

Women's participation in autonomy

Since time immemorial, women have played an important role in the Gunadule culture: they are givers of life, as they have worked alongside men in the struggles and organization of the Gunadule people. The millenary history speaks of great women leaders such as Olowaili, Gigardiryai, Olonagergiyai and others who possessed great knowledge of Mother Earth. They also fought like men in the arrival of the Spaniards, such as Narasgunyai and Nagudiryai, and in the historical events of the Guna Revolution in 1925.

At present, women participate in the Onmaggednega (General Assemblies) as delegates of their communities, and in their own communities, where they have the power to make decisions on development projects in their villages. They have also come together at the county level with the support of the county authorities to consolidate the role of women in the region.

Conclusion

Two aspects of regional autonomy are noteworthy: on the one hand, having a legally constituted territory and its own culture and, on the other hand, the capacity for self-determination or self-government with its own structure that has been recognized by governments and at the international level.

The culture of the Gunadule people is dynamic as a basis for the development of society from its worldview, understood as human creation and its knowledge about nature, man himself and society. It has a knowledge that must be preserved, enriched, recreated, systematically transmitted, practiced, adapted and widely disseminated.

The Gunadule people are taking advantage of economic opportunities for self-management, which strengthens their territorial autonomy. In this process, the Gunadule people are taking advantage of economic opportunities for self-management, which strengthens their territorial autonomy.

blo guna has gained the capacity to administer its comarca through its own regulations, which the government authorities themselves recognize.

However, the lack of public policies for economic and territorial development and productive and social infrastructure essential for the growth and socioeconomic development of the Comarca have not helped to facilitate or increase agricultural and fisheries production. This has resulted in the communities' dependence on food products from Colombia and the capital city, and in significant challenges for the consolidation of their autonomy.

In the comarca, a social market economy is developed and promoted by the Gunadule themselves, especially the owners of hotels and cabins and small traders in the communities. In the case of Gunayala, the social control and community ownership of the Gunas General Congresses and the communities over their natural resources, territory and local and regional self-government prevails, in spite of the pressure that has been stronger from foreign and national companies and investors who wish to invest. Therefore, the "social control" established at the regional and communal level, where the Gunas are the ones who can work in their territory, is the mechanism of adaptation to the capitalist system. In the Guna territory there are other rules for the distribution of income, more controlled by the community because the goods are communal, while in the neoliberal economy the concentration of income has deepened, because the States have ceased to fulfill their role of equitable redistribution of income among the population. In the guna community it could be said that there is a more equitable redistribution of income.

There is no public policy of territorial economic development of the State-Na- tion towards indigenous peoples in the country. For this reason, the Gunadule people themselves have elaborated their own Regional Development Plan to consolidate their autonomy: a plan based on their own agricultural production in each community, so as not to depend on external agents when a regional or global crisis arises. For this same reason, the Food Security Secretariat was created to get back to work in the fields, and thus create community agricultural mini-companies to sell products to the Guna stores and to visitors or tourists.

Another aspect of empowerment is guna medicine. In 2019, the General Congress of Culture founded the "Ina Ibegungalu Care and Learning Center" for the training and apprenticeship of the inadulegan (mé-

The importance of this has been clearly evidenced by the COVID-19 pandemy, where the Guna authorities have complained to the Panamanian government about the lack of coordination in the implementation of intercultural health care. The importance of this has been clearly evidenced with the COVID-19 meeting, where the Guna authorities have complained to the Panamanian government about the lack of coordination in the implementation of intercultural health, not only in the area but also in the other indigenous territories of Panama. The influence of the World Health Organization has determined that the use of masks and the purchase of medical supplies is the solution, leaving aside the importance of botanical medicine as an alternative for indigenous communities in control and prevention as an alternative medicine for Panamanian society.

Consequently, Guna autonomy or Neggsed is developed under the institutions of their self-government, a territory controlled by the Gunas themselves to promote their own type of development in line with their cultural and political reality. The recovery of their ancestral lands of Nurdargana in the west of the comarca is the main political objective of the Guna authorities to prevent the incursion of settlers and transnational companies that see the Guna lands as a field of exploitation to satisfy their own interests. Therefore, it is important that the Guna Fundamental Law be approved as national law, since it consolidates their autonomy, their self-determination. Since the basis of Guna autonomy is cultural, as the Guna sages say, if we have a strong "buar (central trunk)" without cracks, the destinies of the people are consolidated towards the strengthening of their political and territorial self-government.

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Autonomy, intersectionality and gender justice: from "the double gaze" of majorities to violence that we do not know how to name them

Dolores Figueroa Romero
Laura Hernandez Perez

The stories of our grandmothers and mothers are the ones that encourage us to keep walking through painful situations. that we do not want them to be repeated and that other sisters experience them; and also because it is worthwhile for us to keep ourselves alive, from our worldview, from our spirituality, in this world that is so jumbled and so full of things.

(Norma Don Juan, Carrillo Puerto, 2018)

There is violence that we have always known and there are new ones that we do not know how to name. It is not the same violence we experienced 10 years ago. It is the violence of organized crime that is increasingly stronger in community spaces.

(Norma Don Juan, CIESAS, Mexico City, 2017)

Introduction

In the late 1990s "the double gaze of indigenous women" was a widely used and referenced metaphor to show the complexity and positionality of indigenous women in debates of power/gender, autonomy and self-determination in both Mexico and Latin America (Sanchez, 2005). Since then there has been a transformation of indigenous women's activism in relation to institutional and non-institutional actors for the recognition of indigenous peoples' rights and the rights of indigenous women to have access to a life free of violence. In this essay we would like to offer an analysis

The report also describes the exercise of political articulation and changes in the agendas of the organized indigenous women's movement due to the force of generational change, the impact of neoliberal dispossession and the transformations that have occurred at the community level as well as in government policies.

We recognize in the voices of the protagonists -of the majority and contemporary women- a heritage and an accumulative process of struggles that challenge the State and also the national mixed indigenous movement; these struggles have achieved the visibility and recognition of indigenous women as subjects and political actors in their own particularity and right (Valladares, 2017; Bon- fil, 2017; CONAMI-ONUMujeres, 2012; Rivera, 1999). An important element for the formation and political learning of indigenous women is the relationship with international spaces, cooperation agencies and global indigenous activism where women from several Latin American countries have coincided to be formed, to know each other and to organize themselves in networks (Rivera Zea, 1999; Centro de Estudios e Información de la Mujer Multiétnica-CEIMM, 2005). The existence of transnational networks of indigenous women has been vital to ensure the circulation and mobilization of knowledge and resources to strengthen their organization at different scales and regions. However, despite this progress, there is today a growing concern to seek a change of strategy, the opening up of new areas of political work and the renewal of agendas that respond to the current challenges, which are considerably different.

The reading of generational and social changes that this essay re- fers is the product of a co-authoring exercise by a mestiza feminist academic woman and a young indigenous professional and leader. The conversation I have had with Laura Hernández Pérez about power, violence and gender has taken place within the framework of my collaboration with the Coordinadora de Mujeres Indígenas de México (CONAMI) for the strengthening of an activist work initiative called Emergencia Comunitaria de Género (ECG), which seeks to consolidate a platform for the documentation of violence against indigenous women that critically dialogues with institutional policies for the prevention of gender violence. This dialogue with Laura and other young women leaders has allowed me to learn about the political work they do as a network, their political concerns, and their trajectories of struggle as young women who are part of an indigenous women's organization that has a clear autonomy from the mixed indigenous movement (1997). As an academic, I feel the commitment to give an

account of the process

I have also recognized that this implies not only analyzing the origin and the past but also asking questions about the present, and questioning my own understandings about the constitution of the female political subjectivity of the new generations of activists.

Today's CONAMI is nourished by leaderships of different ages and regional origins, which deploy a very intense and diverse organizational life, ranging from advocacy in spaces of dialogue with the State to local actions for violation of the human rights of indigenous women and their peoples. The Community Gender Emergency (ECG) initiative, for example, is a driving force behind an internal re-flexion to understand the connections between the old and new violations against indigenous women that prevail in the country. The ECG initiative is nourished by the concerns of women leaders of various generations - old and young, urban and professional. All with different sensibilities that account for the connections between criminal violence, sexuality, identity, territory and migration.

Looking at generational differences, the dialogue with Laura Hernández Pérez seeks to give a reading on gender justice from the spaces of action of young women, and in the face of the constitution of diverse and porous communities. We see the change of epoch in relation to three elements that are strongly conditioned: (1) a generational change of leadership, especially of young women who move between rural and urban areas, and who have developed a critical and reflective discourse towards intra-community violence,[1] and always in dialogue with the elders to put into perspective the struggles of the past; (2) a change in public policies towards indigenous peoples that has transitioned from neoliberal multiculturalism to the current "post" moment that some have called violent pluralism, or post-recognition of rights (Valladares, 2017; Zapata Silva, 2019). This epochal change is marked by the resurgence of capitalist dispossession despite the existence of laws that dictate respect for territorial rights.

1 This critical thinking with respect to indigenous gender orders could be called indigenous feminism, but this would be advancing a statement that does not represent all indigenous women leaders. What is important to mention is that there is a great diversity of positions in this regard, from leaders who call themselves indigenous feminists such as Alma López (2005) or community feminists such as Julieta Paredes (2008) or Lorena Cabnal (2010). This critical thinking goes beyond the conceptual limits of Western feminism and reveals the complexity of the positionality of indigenous women in emancipatory discourses of both feminism and Latin American Indianism.

and patrimonial rights of indigenous peoples. It is a time when contradictions are so acute that the State itself is intertwined with and tolerates extreme violence and the generalized crisis of human rights violations against indigenous peoples (De Marinis, 2019; Mora, 2017; Hernández, 2017); and, finally, (3) the short and long term effects of public policies on gender equality and the prevention of feminicidal violence in indigenous communities (Mora, 2017; Figueroa, 2017, 2019). These policies are seen by many as intrusive of community space as they essentialize derogatory and racist notions of local culture by imposing mandatory forms of participation (Valladares, 2018) and "appropriate and modern" norms of behavior for the care of the family (Mora, 2017; Seodu Herr, 2020).

In order to discuss these changes from an intersectional feminist perspective, we take up two key frames of enunciation and two moments that account for the political positionality of indigenous women. The first reference is an indigenous feminist reflection published by Margarita Gutiérrez and Nellys Palomo (1999) on the priority issues of the Mexican indigenous movement. "Autono- mia con mirada de mujer" is a work that echoes the revolutionary importance of Zapatista women and articulates a feminine reading of the indigenous political project for self-determination, self-government, and autonomy. This work early on reemphasized the complexity of the commitment to build community and self-government that took into account women's social spaces and their rights. It is a text about the ways in which indigenous women make politics and project their voice to make known their feelings about the social construction of equity. In our opinion, the text has the particularity and analytical richness of conceiving autonomy from a feminine perspective that interconnects various scales of power ranging from the private, the community, the national to the international.

Autonomy as a political project, as a horizon of self-determination and self-government cannot be conceived without taking into account the inclusive participation of men and women (Gutiérrez & Palomo, 1999); and that these processes of transformation must take place from the home, but also in the community, in political organizations and in the nation. Autonomy with a woman's perspective includes a scalar notion of change and strategic involvement that nourishes and inspires indigenous women's activist work to build networks and agreements with other women, but also with partners. What is profoundly transformative about this approach is that it embodies a disruptive notion of power that

starts in everyday feminine spaces, those spaces that are outside of community governance and that ensure the reproduction of life (Mora, 2017).

Feminine autonomy starts from the most intimate core of community life to make a transformative and multi-scale call that connects and leads women's participation in decision-making and public spaces that are normally alien to their presence. This notion of connection invites us to reverse and challenge prohibitions and discriminations that prevent women from raising their demands and taking part in decision-making processes. It is an approach that expands the very concept of autonomy by feminizing and depatriarchalizing it, since it makes visible the mechanics that deny spaces for women and promotes an appreciation of the feminine gaze to geopolitical debates and discussions where only the masculine-specialized sa- ber on territory and power reigns (Blackwell, 2012). Indigenous women, by simultaneously embracing the struggle of their peoples and their own gender struggles, escape the imposition of the institutional feminist discourse. They reject being treated as "objects of equality rights," the stigmatization of their community identity, and being seen as incapable of seeking social and gender justice on their own. "Never an autonomy without us..." demand these voices, this gaze that claims a leading place in the dignified resistance and in the political debate on the rights of indigenous peoples (CONAMI, 2012).

The second framework of enunciation is in the approach to the political positioning of indigenous women, in the metaphor of the "double gaze" (Sánchez, 2005). The double gaze of indigenous women is a reflective exercise of a double nature, located at the intersection of the collective rights of the peoples and the particular rights of the female experience of gender discrimination. In this sense, it is a new generation of double gazing, where gender oppression is added to other discriminatory dimensions such as class, ethnic-racial and cultural-identity. If the indigenous double gaze in the 1990s invited solidarity with the exploited peasant classes and the oppressed indigenous nations (Hernández, 2005), the female double gaze adds yet another dimension of oppression, that of gender, intersecting with all the previous ones.

We found that the double gaze of indigenous women activists implies a critical and reflexive intersectionality that engages in a constant interpellation with the mixed indigenous movement and hegemonic feminism. On the one hand, the interpellation with indigenous activism implies deconstructing the sexism of their peers, and in the case of liberal feminists, the critical dialogue with indigenous women activists implies deconstructing the sexism of their

peers.

reveals the racism and mestizo ethnocentrism that judges and prejudges community living spaces as backward (Seodu-Herr, 2020). The task is complex, it requires a kind of great skill to legitimize the voice, to show the specificity of the demands, to reverse the interstices of discrimination and its negative effects in the political and social field.

The activism of indigenous women is an activism that emerges from within the communities, and is symptomatic of the transition from a passive voice to an active voice that has its own character (CONAMI, 2012). It is an activism that seeks to disrupt family arrangements, normative systems, and that confronts and questions male leadership in order to make their demands possible and legible (Sánchez, 2005). Escalarmente is a look that disrupts several orders and that looks at the community, but is constituted in reference to, and in concert with, national policies that threaten the life of the peoples. That is why indigenous women respond critically to the State that with its contradictory and racist policies tries, on the one hand, to impose a minimalist version of rights on the peoples of Mexico, and on the other, criminalizes the indigenous community for violating women's human rights. Indigenous women, by simultaneously embracing the struggle of their peoples as well as their own gender struggles, escape the imposition of the institutional feminist discourse by being treated as "objects of equality rights" that stigmatizes their community identity and minimizes their capacity to seek social and gender justice (Blackwell, 2012; Seodu-Herr, 2020).

The political positionality of indigenous women is complex and often silenced, and therefore requires the lens of intersectionality to make sense of the multiple misencounters/encounters with non-indigenous actors and activist discussions. The feminist concept of intersectionality has potential and flexibility to make sense of the conjunction of discriminatory violences and orders, the construction of differentiated social identities and the co- yoked web of activisms for social, economic, political and gender justice (Creshaw, 1993; Suzack, 2017). Conceptually and methodologically, intersectionality offers several fruitful analytical axes: it explores the intersectionality of the identities - social, ethnic, racial, age-group- of marginalized social groups; it reveals the intersectionality of the structural and historical oppressions and determinations of specific contexts; it analyzes the political intersectionality of the work of activists who invisibilize indigenous women (in the case discussed, pro-political parity feminism/anti-feminicidal violence versus indianism by

indigenous peoples' sovereignty); and helps push constructive and revealing dialogues on the blinders and blind spots of political actions and rei- vindicatory lexicons (Wright, 2017).

Specifically, this essay takes up the concept of *political intersectionality.* -acclaimed by Afro-descendant feminist Kimbery Crenshaw (1991)- as it has the potential to understand the complexity of the positionality of indigenous women's collectives facing diverse forms of violence in the margins of hegemonic activisms - whether feminist, ethnic, or human rights. This perspective refers to the intersection of activist agendas that, in general, take parallel or contradictory paths and generate silences about the different ways of conceiving justice, as well as the routes to access it. Activisms are born and organized to seek justice, and in the case of hegemonic feminism, gender justice[2] encloses Western epistemological blinders that deny indigenous women the ability to seek their own ways of building equity between genders and in concert with local institutions and from the cultural references of their communities (Seodu-Herr, 2020; Goetz, 2007).

The following sections of the essay are organized as follows. First we will address the background and origins of CONAMI in con- cern with political events in Mexico in the 1990s and after the Zapatista uprising. The second section will discuss the nature of different genealogies of indigenous women's leadership and especially what these different life experiences mean for sizing generational change. The third section includes the narratives and thoughts of three young women leaders from CONAMI who were selected based on their divergent and complementary ways of addressing the internal contradictions of their communities. We will close with a section that discusses community emergency work and the challenges of gender justice from an intersectional and intergenerational perspective.

2 Gender justice' is often used in reference to emancipatory projects that advance women's rights through legal change, or promote women's interests in social and economic policy. However, the term is rarely given a precise definition and is often used interchangeably with the notions of gender equality, gender equity, women's empowerment and women's rights (Goetz, 2007). However, in contexts where there is a cultural diversity of perceptions about what is fair in gender relations, the predominant definition of gender justice is the norm of Western ideology.

CONAMI and the double look 23 years later

In 1997, CONAMI was founded within the framework of the First National Encounter of Indigenous Women held in Oaxaca from August 29 to 30. This meeting was attended by more than 800[3] indigenous women from all over the country with the intention of formalizing a space for organized women who could grow as a collective with their own identity and in dialogue with the national indigenous movement. Inspired by the leadership of Comandanta Ramona[4] in the liberating imaginary of the Revolutionary Law of Indigenous Women, the founders of CONAMI opened a very important chapter in the political and public life of Mexican indigenous women (Espinoza Damian, 2009). This foundational moment was the result of the multiplier effect of Zapatismo throughout the country: "contemporary Zapatismo had exacerbated the enunciative field of and about indigenous women, provoking a change in self-awareness and their self-representation..." (Millán, 2014, p. 67 in De Marinis, 2019, p. 110). All the Zapatistas, but specifically Comandanta Ramona, inspired other indigenous women not to be afraid, to leave their homes and set an example of rebellion to exercise a leading role.

Following this invitation, many of the women leaders who attended the meeting had already been participating in mixed organizations of their peoples and in the regional organizations that questioned the State about the alleged celebration of the 500th anniversary and the "Encounter of the Two Worlds". The mission was to legitimize a space to talk about sensitive issues for the indigenous movement but also issues relevant to women, such as the right to political-social participation within the community, to make visible their contribution to the indigenous political project, freedom to make decisions about reproductive sexuality, to have

3 The organizations participating in this seminal CONAMI congress were UCIZONI, Mujeres Olvidades del Rincon Mixe, Oaxaca, ARIC-Democrático, Jolom Mayaetik, J'Pas Lumetik, Chipapas, CIOAC, Chiapas, Servicios del Pueblo Mixe, Masehual Siuamej Mosenyolchicauani, Puebla, Unión de Mujeres Campesinas de Xilitla, San Luis Potosí, Comisión de Mujeres de la ANIPA, Consejo de Pueblos Nahua del Alto Balsas, Guerrero, Sedac-Covac Hidalgo, and the Comisión Nacional Indígena. In Sánchez (2005, pp. 93-94).

4 Comandante Ramona was an indigenous Tzotzil woman and commander of the Zapatista Army of National Liberation in Chiapas, Mexico. She was one of the most important public figures of the first stage of the Zapatista uprising and central to the Zapatista Women's Movement and indigenous women at the national level.

right to land, economic independence, and access to a life free of violence.

The women leaders who responded to the call at that time were partners and/or wives of men who had a prominent role in some regional or national mixed organization, and therefore, being close to the mixed collective, they found it appropriate to consolidate an autonomous space to meet as women. In order to achieve conflict-free meeting conditions, it was agreed that they would not get involved in the discussions of their mixed organizations, and would concentrate their thoughts on discussing issues of common interest as indigenous women (CONAMI, 2012). The elders recall that getting together was no easy task, as many left their homes secretly, carrying their children, even if they later had to endure reprimands for failing to fulfill their household responsibilities (Jurado et al., 2018). But perhaps the most difficult thing to face was the criticism from within, from the male gaze that questioned the relevance of the process and threatened the women's initiative to achieve an autonomous organization with divisiveness.

Twenty-three years have passed since then, and CONAMI's existence has been marked by several milestones and various paths (CONAMI, 2012). The founding mothers, in addition to ensuring political spaces for women only, were also forerunners and actors in the transnational indigenous movement, participating in forums, meetings and international training courses on human rights. During all these years they have maintained a healthy autonomy with respect to the mixed indigenous movement and in dialogue with allied feminist organizations and international cooperation for the procurement of resources for training and political advocacy work. The tasks have focused on influencing national public policy in order to mainstream the concern for addressing the specificity of indigenous women, on generating training spaces for women who attend to the needs of their communities at the local level, and on actively forging continental networks such as the Enlace Continental de Muje- res Indígenas de las Américas (ECMIA, 2008).[5] At the national level CONAMI has

5 A strategic element of CONAMI's founding women's movement has been the link with indigenous women's activism at the continental level (Valladares, 2008), in networks such as Enlace (ECMIA) where Mexican women leaders have contributed to the formulation of agendas, the political training of cadres, attendance at international events and the organization of two international meetings on Mexican soil (Sixth Continental Meeting of Indigenous Women).

CONAMI is present in 17 states of the Mexican Republic through 23 community, municipal and/or regional organizations, with or without legal status, mixed or made up solely of women. CONAMI is currently governed by three decentralized regional coordinating bodies in the north, center and south, and has several working commissions that require the contribution and commitment of young women leaders, such as the Commissions for Children and Youth, Communication and the Eradication of Violence.

In terms of leadership genealogies, CONAMI has recognized founders and notable leaders such as Margarita Gutiérrez (Chiapas), María de Jesús Patricio "Marichuy" (Jalisco),[6] Tomasa Sandoval (Michoacán), Martha Sánchez Néstor (Guerrero), Felícitas Martínez (Guerrero), Fabiola del Jurado (Mo- relos), Ernestina Ortiz (State of Mexico) and Sofía Robles (Oaxaca) who have played an outstanding role in projecting the "voice and double perspective" of Mexican indigenous women in international spaces on the issue of indigenous women's issues, Ernestina Ortiz (State of Mexico) or Sofía Robles (Oaxaca) who have played an outstanding role in projecting "the voice and the double perspective" of Mexican indigenous women in international spaces on the issue of human rights of women and indigenous peoples, making visible the correlation and overlapping of these two orders of rights in specific contexts. During these years, several indigenous women leaders have shown great abilities to carry out actions and processes autonomously, diligently and with scarce resources. Together with the older women, there is a generation of young women who are taking on various responsibilities that are central to the organizational life of CONAMI. They are young women who know they are heirs to a political agenda that was outlined in 2012 within the framework of a process of accompaniment provided by the United Nations Development Program (UNDP).

This agenda included five consensual thematic axes: 1) Cultural rights (identity, education and technology); 2) Right to territory and natural resources; 3) Political rights and free and informed prior consultation; 4) Economic rights and food sovereignty; 5) Right to health, sexual and reproductive rights, and right to a life free of violence. Without denying the relevance and centrality of these axes, we would like to point out that there is a new

Indigenous Women of the Americas in Hueyapan de Morelos in 2011, and the Eighth Encounter in 2020 in Mexico City).

6 María de Jesús "Marichuy" Patricio Martínez (of the Nahua People) is the first indigenous woman to run for president of Mexico. She was chosen as an independent candidate for the

2018 elections during a convention in Chiapas that brought together the Mexican Indigenous Governing Council and the Zapatista Army of National Liberation. https://bit.ly/37j4mLf

generation of demands, needs and areas of work that young indigenous women develop, and which urgently need to be included.[7] The contemporary leadership of CONAMI calls for the passing of the baton and the establishment of more consistent intergenerational communication channels.

An important input for the analysis of intergenerational dilemmas is to know to what extent organized indigenous women recognize diverse positionalities within themselves and adapt their political reading to national problems. The long-term social effects caused by modernizing development policies, territorial dispossession and the precariousness of the rural economy have triggered realities in rural and indigenous communities that are already part of a naturalized reality (Bonfil et al., 2017). Rural-urban migration, loss of language, unwanted pregnancy, symbolic and media violence, disconnection with the community world, sexual and femicidal violence against indigenous women, are some examples to mention. What are the differences between the 2005 call of the double gaze and the gaze of young women leaders? The answers to these questions are linked to the transformations that have taken place in the community as a geographical and metaphorical space for thinking and living indigenousness, the migration/mobility of the new generations of young indigenous people, and the politicization of rights and identity from the intersectionality of contemporary violence.

7 An important precedent of the Sixth Continental Meeting of ECMIA in Hueyapan, Morelos in 2011 was the decision that each region of Latin America would have a commission for Indigenous Children and Youth with the intention of involving young people in the formative processes and encouraging their participation. The main concern was to combat the adult-centeredness of the movement and open a door for dialogue with the concerns and problems of young people who were marked by processes such as rural-urban migration, loss of language, symbolic violence, drug abuse, suicide, unwanted pregnancies, etc. By 2016, following a General Assembly of CONAMI, statutes and agreements on an internal governance structure of CONAMI were instituted, from which the Children and Youth Commission was created within CONAMI, whose mandate was to contribute to enriching the agendas and political work that was distant and alien to the reality of young people. This commission was formed by Patricia Torres Sandoval, Lynn Ramón Medellín and Laura Hernández Pérez.

Leadership genealogies and intergenerational changes in CONAMI

At CONAMI's 20th anniversary in 2017, which was held at the Central Library in Mexico City, the inaugural speech was given by Laura Hernández Pérez, a member of the Children and Youth Commission. Laura - of Nahua origin, of migrant parents in the metropolitan area of the Mexico City Valley, a social worker by training - was in charge of welcoming the regional participants from all over the country, as well as observers and visitors from abroad. Laura took the microphone to read the collective and political positioning of CONAMI, respectfully taking up the teachings of the elders, and honoring the path opened by Comandanta Ramona. It was highly symbolic that Laura, with her young voice, was the spokesperson of CONAMI's position after twenty years of work. At the celebration she emphasized that the struggle of women for the collective rights of peoples and the rights of indigenous women to enjoy a life free of violence(s) is still very much alive. "What are our demands today? No to discrimination, racism, poverty, violence, death, dispossession, exclusion and repression" (August, 2017).

In terms of political subjectivity, Laura said that participating in CONAMI taught her to get rid of her fear of speaking in public, to form collectives, and to insist on defending the rights of indigenous peoples and the human rights of indigenous women in rural and urban areas. To continue promoting the transformation of relations between men and women, from the community-local to the national and transnational levels, from different fronts. In 20 years, Laura pointed out, it has not been easy to have continuity - as CONAMI has had crises - like any other organizational process. But together they have taken up the path again thanks to the incorporation of youth leaders who are fighting with renewed interest, not for their own personal interests but for the interests of all the indigenous women of Mexico.

Continuing with the reading of the position, Laura pointed out:

> ... today there are many laws and specific programs aimed at benefiting indigenous women. The Mexican state has been reactive to the lobbying and advocacy work of indigenous organizations. As CONAMI we will always stand for the recognition of indigenous women as subjects of rights and that we have access to justice, health, education, employment, opportunities to participate in the political life of both our communities and our peoples. But after 20 years of existence as a coordinator we denounce

> that there have not been many changes. Although progress has been made in legal matters in the international and national sphere, this is not reflected in the daily life of communities and indigenous peoples. Worse still, violence has been unleashed against social fighters for the defense of territory (August, 2017).

Laura began her involvement with CONAMI doing grassroots work in technical support areas. She is now an outstanding leader who assumes the role of Communications Coordinator. In addition to her leadership role within CONAMI, Laura is the founder of a collective called Yehcoa Um of urban indigenous youth who work with Otomi children and youth who live with their parents on a property in the Roma neighborhood of Mexico City, and who sell handicrafts and sweets on the street. Their concern has been to prevent mistreatment, abuse and drug addiction through rights education with at-risk urban indigenous youth. In reference to the mayoras, Laura also mentioned that:

> ... the seeds have borne fruit, they have been the seedbeds of several indigenous women's organizations. They are all sisters with whom we build community, share information and accompany each other on this journey until dignity becomes customary...! (August, 2017).[8]

With these words she took up the clamor for justice of indigenous women who have been unjustly imprisoned, and their condition of poverty and defenselessness makes them prey to a police system that acts with impunity. The injustice of these cases not only harms the social life of the people but also represents a clear example of gender injustice.

In Laura's words there are clear indications of a transformation in the political discourse, and that at certain moments she insists on responding to precarious life conditions in contexts where the experience of ethnicity is threatened. In this vein, we take up the work of anthropological colleagues such as

8 "Until dignity becomes customary" is a phrase expressed by Estela Hernández at the official public apology ceremony of the Mexican government for the imprisonment of three Otomí indigenous women who were falsely accused of kidnapping six agents of the Federal Investigation Agency (AFI). They were arrested in 2006 in Santiago Mexquititlán, municipality of Amealco de Bonfil, Querétaro. Jacinta Francisco Marcial, Teresa González Cornelio and Alberta Alcántara are the names of the three people arrested. Estela, Jacinta's daughter, fought tirelessly with her sister Sara for her mother's freedom. The official apology from the Federal Attorney General's Office (PGR) in 2017 was offered eight months after the third collegiate court in administrative matters of the first circuit ordered it. https://bit.ly/2HQxaC7

Laura Valladares (2017) and Paloma Bonfil (2017) who have documented the leadership formation processes of young indigenous women and have published referential works for this analysis. For us, there are two key questions to answer after reviewing this literature, what has been written about the generational change of indigenous women and the elements of analysis they provide? And second, what does the literature say about young indigenous women?

For Valladares (2017), generational change is broadly conceptualized in relation to three time slices that are also emblematic of different socio-political epochs. The first cut-off refers to older adult women between fifty and over sixty years of age whose life experience is closely linked to the domestic space, little participation in community life, with a melancholic feeling towards the quiet and simple life, but with few possibilities of questioning injustices against them or even naming them. An era marked by industrial development promoted by the Institutional Revolutionary Party, rural political clientelism and hegemonic nationalism. The next cut is of women between thirty-five and fifty years of age, which is a generational group that stands out due to the influence of Zapatismo and the times of the emergence of ethnicity as a salient banner of struggle. The negative structural factors linked to the neoliberal economic opening are the worsening of the crisis in the peasant economy, the increase of migratory flows, the incorporation of indigenous women into the paid labor market, and as a result of male migration to the northern region of the country, the feminization of poverty and the emergence of new gender roles within the communities in the political and productive spheres. The positive aspects for indigenous women at this time are those related to access to formal and informal education, access to training programs on economic empowerment, human rights training and leadership. As a result of neoliberal multicultural recognition policies, outstanding indigenous women leaders selectively entered government programs in areas of social attention with an intercultural and gender focus, as well as in programs financed by national and international cooperation agencies.

The last time cut is that of the generation of the new millennium, young women between fifteen and thirty-five years of age, who are living/survivors of the era of constitutional post-recognition. This era represents the loss of the interlocution of indigenous peoples with the State, the marginalization of their demands, and the loss of their rights.

The indigenous women's rights in the congress of the union, the proliferation of network activism, the decentralization of mobilization to the territories and the hyper-judicialization of indigenous rights in the electoral field.[9] This generation is witnessing a paradoxical situation that Laura Hernandez pointed out in the anniversary speech, there are many legal frameworks that recognize the rights of women and indigenous peoples but their impact on daily life is tenuous due to the huge implementation gap and even more to the non-existent guarantee of their justiciability. In terms of the economic and structural conditions of the country, young generations are affected by the lack of employment, the precariousness of agricultural work, the presence of organized crime and the impacts of the drug economy and criminal violence. Indigenous youth live in a country where expectations of having a dignified life free of violence are scarce.

For Bonfil (2017), even with all these negative elements already mentioned, the new generations of young indigenous women leaders are resisting on many fronts. Partly because they are the granddaughters of old-style women leaders, partly as a result of their parents' efforts to provide them with an education in the cities, they are a generation that readapts tradition and identities from their hybrid and modernized experience. In many ways, they challenge the adult-centric bias that marks young people as apolitical and uninterested in community issues. The important axes of change in youth political discourse touch on five nodal aspects: (1) that the construction of community and autonomy is invariably intersected by the experience of migration and the porosity of the rural/urban divide. The community in the imaginary of young women is planned in more fluid, more porous and spatially multi-situated terms; (2) that the experience of power and participation is posed in more belligerent terms, more in the face of seeing substantive changes in community structures and traditional governments that are not very receptive to the demands and participation of women; (3) that reproductive sexuality and the

9 This turn to the judicial-electoral in Mexico is a characteristic feature of the policies of recognition, which decentralized to the municipal level forms of election by usos y costumbres, where autonomy and self-government has been recognized at the local municipal and community level. This type of legal conquests have been possible to achieve in several states of the republic, but require the intermediation of lawyers and experts in strategic litigation, making this right inaccessible to those collectives or communities that do not have this support. We are grateful for the contribution of Araceli Burguete Cal y Mayor in this particular annotation (2020).

(4) and the experience of indigenous identity is reclaimed from the scenario of urban socialization, in dialogue with other external cultural influences and in resistance against racial and spatial discrimination; (5) the experience of new, extreme, lethal violence, linked to different migration processes (whether forced or labor), violence that has new names, new impacts on young people and that flows through social networks, drug use, human trafficking and circles of criminal practices.

It is for this reason that indigenous youth issues now have a more central place in CONAMI's agenda. In recent years, women leaders have shown receptiveness and interest in incorporating young women leaders, young professionals who are present in the speeches and debates, and in the intergenerational dialogue. Political discussions between elders and young people is now a common pedagogical practice, both in national events and in small-scale subregional meetings; but there is still much to learn.

When young women speak up and demand: the dilemma of weaving continuity or dissenting

In this section we would like to introduce the thoughts and experiences of three exceptional young women, members of the Yehcoa Um Collective, each in her individuality and trajectory.[10] They represent different positions with respect to sensitive issues such as community, identity, rights and (gender) justice. In our perspective, even though all three share a commitment to the consolidation of CONAMI, they have a different political subjectivity due to their life experience and the way in which they were inserted in organizational processes. We have selected their interventions based on three different perspectives with which these young women relate to the political community of "mayoras y mayores" either by seeking to weave continuity with them and listening to their teachings or, on the contrary, by questioning the paradigms of unity within the communities and their impact on the lives of young women, women and community.

10 The narrative of the sections is in the first person as they are interviews conducted by Dolores Figueroa, although they are part of a working material that we have discussed and reviewed together with Laura Hernández, co-author of the chapter.

Weaving continuity and community

Laura Hernández Pérez, co-author of this essay, is a young woman, mother of a fourteen-month-old girl, from a family of migrants of Nahua origin from the state of Puebla and Veracruz. Her parents and uncles lost the Nahuatl language due to discrimination in the city, but she remembers that her maternal and paternal g r a n d p a r e n t s spoke it, and she, not being a speaker, feels that there is a root that pulls her to recognize herself as indigenous. Laura, interested in the social sciences, chose a career in social work at UNAM. Laura's process of self-recognition came about when she began a process of accompanying Otomí children and young people living in a property in the Roma neighborhood dedicated to street commerce, and vulnerable to the violence of urban life. Laura saw in them many things in common with her own life experience, to the point that she recognized herself in them. Later, her search for resources to work with the urban indigenous population led her to meet other young women leaders who, like her, were putting together proposals, seeking resources and knocking on the doors of government institutions in the city. The principle that mobilized an ethnically diverse group -Mazahua, Otomí, Totonaca, Nahua- was to build community in diversity, and to fight against discrimination in all its facets.

Trained in a diploma course on human rights by the Francisco de Vitoria Human Rights Center, Laura began to organize discussion groups and forums where she had the opportunity to meet leaders such as Fabiola del Ju- rado and Norma Don Juan. By 2016 Laura received an invitation to participate fully in CONAMI's Logistics, Management and Communication Commission, coinciding in the space with other young women such as Lynn Ramón Medellín and Patricia Torres Sandoval. Little by little, the weight of the responsibility began to grow and become more complex, leading her to develop *expertise* and poise to attend international events where the agenda of indigenous youth was discussed.

For Laura, the participation of young women in the CONAMI process is vital because it allows them to make visible and position issues that are present in their personal lives, in the lives of other young people and in their community, such as sexual diversity, violence in networks, suicide and abortion. Talking about and airing these issues helps CONAMI's majority to locate the problems and understand the need to take a stand on them. The young women raise issues that concern them and that are an integral part of their experience in the cities, in many cases far removed from their experience in the community. A

large part of the life experience of the

and young people has to do with the struggle to survive in the city, to confront racism and develop defense mechanisms. Laura points out reflectively that life in the city tends to develop in the sons and daughters of migrants an individual perspective, and that, in her experience, this can lead them to act immaturely and to break away from their own collectives.

For example, the issue of gender identity diversity is a complex terrain to address in community settings. Some older women leaders are reluctant to understand the diversity of identities and the political demands that derive from it. Laura considers that there is a responsibility in being a young leader, since one must learn to weave the new demands with the benefits that their discussion would bring to the community as a whole, i.e., to be a leader of young people:

> ... that we are not only won over by positioning ourselves individually, but that we ask ourselves how this relates to or benefits our organization. There are some sectors of young indigenous women who are critical and have reflected on the forms of relationship between women and men in their communities and find it difficult to accept attitudes that are sexist, unequal and/or that violate the rights of young women and indigenous women, so the position at times is very hard, but I think that we should not postpone change but learn to weave in community to g e n e r a t e good living. There are ways to make it compatible, we must find the ways, the steps and if in a given case there is no way, it is necessary to opt for the most conciliatory path. (Hernández, 2019).

Laura recalls that at the beginning when she participated in CONAMI she was very rebellious and radical, and little by little she listened to the teachings of the elders, learning from them, and they offered her a community where she felt supported and not lost in the city. Now she recognizes CONAMI as her community:

> ... is my collective, because they have twenty-two years of organizational, self-management and autonomous work. And that is enough. This experience makes me situate myself with a different perspective. The collective builds me up, but I pay to the collective, we are walking together (2019).

Laura is a mother, and her responsibilities at home consume her time and energy, but she feels the need to continue working for the continuity of CONAMI by engaging new partners in the work. She is concerned about the issue of renewing CONAMI's policy agenda that was published in 2012. This agenda, according to Laura, needs to incorporate new issues. The issues of the

agenda are rights/incidence, territory/autonomy, education, political participation, reproductive health and gender violence. What is missing?

> ... well, there are many problems that are a very real reality in the communities - both urban and rural; for example, violence in social networks, alcohol and drug addictions, mental health issues such as suicide and self-inflicted injuries. All these are new things that did not happen before. Similarly, there is the whole chapter on extreme violence such as femicide, trafficking, forced displacement, all related to militancy and organized crime. In the labor field there is a debt such as labor exploitation of both agricultural laborers and domestic workers (Hernández, 2019).

Much remains to be done, however, Laura is always in good spirits, with kind gestures she leads with her words and her feelings and although the problems she talks about seem immeasurable, she always keeps her tone of voice slow, giving herself time to think and reorganize her thoughts.

Indigenous women's sexuality is not just a reproductive issue

I met Yadira Lopez at the CONAMI Central Region meeting in the city of Morelia in 2019. My task was to facilitate the rapporteur of the working group on sexual and reproductive rights organized by the Commission for the Eradication of Violence and Children and Youth. Yadira was seated next to other compañeras from the region when it was her turn to participate and she began by introducing herself as follows: "I am a Zapotec woman from the Oaxacan Isthmus, and I am a lesbian." From the beginning of her intervention, she suggested to her colleagues that the discussion on the sexuality of indigenous women should not be limited only to reproductive issues and violence. She was uncomfortable that indigenous women's sexuality was limited to the issue of motherhood, and the experience of obstetric and sexual violence. She argued that the social order imposes social roles on the female gender such as motherhood or caring for the sick. Early marriage and unwanted pregnancies are a reality in the life experience of many indigenous women in the country.

For Yadira, these issues should not restrict the topic of sexual rights to the reproductive sphere. Reproduction is only one part of human sexuality and, therefore, should include other issues such as pleasure and non-heterosexual sexual-affective orientation. From their perspective, it is

It is a violation to see indigenous women as alien to the enjoyment and enjoyment of sex. These concerns represent an important part of Yadira's experience of socialization as an Oaxacan woman from the Isthmus. She explained that in the Oaxacan imaginary about the Isthmus there is a construct from the narratives of visitors and foreign anthropologists or naturalists who have represented Zapotec women as hyper-sexual. Hence, there is an external gaze that exoticizes the region, and above all hypersexualizes both female sexuality and sexual diversity. But this margin of tolerance towards sexual diversity is restricted to the figure of the Muxe. Muxe transsexualism is socially accepted within the community, but other diversities such as lesbianism among indigenous women are not.

From Yadira's perspective, it is important to open the discussion among indigenous activists about the sexual experience from places other than just violence. In indigenous languages there is no way to translate the western sense of sexual rights, but in Zapotec there is a word to name the enjoyment of both eating well and having a full life with a partner, free of violence. To be full in all senses.

For Yadira, talking about sexual rights should include the right to pleasure and not only be restricted to the issue of maternity and family reproduction.

> It is understood that a very important part of our activism is focused on making it a reality that indigenous women have the right to be assisted in their births in a dignified and culturally appropriate manner. But they must also have the right to exercise a sexual and pleasurable life with dignity and free of violence. Reproductive rights should cover all facets of women's sexual and reproductive lives, including giving birth without suffering violence, not being discriminated against for having children of different fathers, living motherhood voluntarily and not forced, having the right not to choose motherhood, procreating with same-sex partners, knowing how to plan your family and having children in a spaced manner. All these rights are the most intimate, the most proper of being a woman, and if they are not known there is no way to exercise them (Morelia, July, 2019).

Pleasurable sexuality for women is also a right, but it is rarely exercised, because most of the time it is seen as an obligation, a sexual obligation for being a wife, and it is lived with violence. Yadira wondered:

> How should indigenous women make a distinction between these two spheres: reproductive and sexual rights? How do we understand our own sexuality?

> There is a lot of work to be done, to dialogue among ourselves and try to reach agreement on what is favorable to the movement and to sexual rights education for boys and girls. These reflections should be part of the educational perspective to address these issues with indigenous youth, from the right not to be violated to the right to live a pleasurable sexuality and to decide the number of children to have or not to have. (Morelia, July, 2019).

Yadira is a young university student who, thanks to a scholarship program for indigenous students at UAM, has allowed her to reach other social circles and to develop intellectually and organizationally. Although a salient element of her passage through the university campus has been to experience sexual harassment by professors. I have had the opportunity to see Yadira participate in other CONAMI forums and political events, and it seems to me that she is a young woman who is articulate and brilliant in her reflections, although her words are sometimes not well received by leaders who are not familiar with these issues. Her outspokenness about her sexual orientation breaks fabrics and imaginaries, which in my role as an outside observer of the movement I have not witnessed so often. I have seen the strength of Yadira's testimony in the public participation of young indigenous women and professionals who use it to show their lesbianism, and to talk about the experience of abortion, or the mistreatment due to the motherhood of children out of wedlock. Yadira is the daughter and granddaughter of healers, of wise doctors who suffered persecution and violence for using their knowledge in their native land in Oaxaca. Later, in a very difficult moment in her adolescence, depression took her prisoner and her mother's knowledge of healing helped her to move forward. Sexuality lived from other non-traditional referents is a point of rupture with the community and leaders like Yadira remind us that autonomy is also claimed from such intimate spaces as one's own body.

When lethal violence disrupts the community

Lizbeth Hernández Cruz is included in this review of voices of new CONAMI activists because she is a young professional who has cultivated a strong bond of connection with her community despite migration. Her childhood was very close to her mother's family, with great demands for excellent school performance and experiences working in the fields collecting prickly pear cactus with her grandfather. Her good grades allowed her to earn scholarships and recognition and to have several training opportunities in Mexico City. His

professional preparation has not been a pretext that has kept her away from "her people".
-as she puts it - but always look for ways to work for the community.

Originally from El Sauz, a community that belongs to the municipality of El Car- donal in the Mezquital Valley region of the state of Hidalgo, Liz is the daughter of a well-known indigenous education teacher, and her maternal grandfather was once elected municipal president. Liz has had a very successful educational trajectory, having studied everything from law to political science, disciplines that have helped her to critically analyze her relationship with the political order of her community and her identity as an indigenous woman. Liz has had four very important formative experiences: one is her family from whom she has learned the discipline of studying; the second is her commitment to help her community in administrative and secretarial functions in community assemblies; t h e t h i r d has been her training as a feminist in dialogue with academics from UNAM who are experts on these issues; and fourth, the connection she made with young women leaders from CONAMI.

She says that between 2014 and 2016 she was very involved in the assemblies, following up on agreements, taking minutes and participating in the assemblies on behalf of her brother and her mother. Her mom is a "citizen" (she is the de- nomination instead of ejidataria) and has the right to participate in the assembly plenary sessions. In Liz's case, her participation is in a representative capacity, since she cannot be elected to positions and her name cannot appear on the signature of the minutes. Her mother has the same rights and obligations as any other citizen.

Involved in community politics because of her mother's privileged position, partly out of self-interest to get involved, Liz was also involved in helping with the celebration of the patron saint's feast day. She also participated in the elaboration of the community's internal regulations, although once she learned about the rules of inclusion and exclusion, she became disenchanted because in her opinion there was no equal criterion for participation and commitment of the community members. "The community assembly is a small state, with its internal rules of participation, hierarchies and functioning orders that go through consensus but are governed by the criteria of the elders" (Hernández Cruz, December, 2019).

I met Liz during an internal workshop with CONAMI on issues of documenting violence in 2017, and on that occasion she was part of a

UNAM research team who were doing data collection and recording life stories on leadership and power. In the dynamic of presentations during the workshop, she spoke of her work as a rapporteur in her village assembly and of a study that was about to begin on structural violence against indigenous women. She spoke slowly and looked attentive behind light-colored glasses, and I was pleased with her positive attitude towards sharing.

A year later, in 2018, I met her again at an event organized by CONAMI at the headquarters of the National Institute of Indigenous Peoples (INPI) in the task of supporting the political process, participating as a speaker in a conversatory on CONAMI's political agenda, but carrying a bitterness that from offstage it was difficult to guess the origin. Liz had grown a resentment that was noticeable, and once she was installed with microphone in hand, she made it clear to all listeners. Liz was struggling with feelings of great anger against the traditional authorities of her town because in her opinion they had not responded adequately to the femicide of a relative that occurred in the middle of the patron saint's day dance at the beginning of 2018. A close aunt of Liz was murdered in the town square by a jealous ex-boyfriend who shot her dead. Once the event took place, there was growing confusion, the murderer fled, the murder weapon was left in the custody of the traditional authorities and the evidence was lost, and the Public Prosecutor's Office was informed of the facts too late. The murderer was apprehended some time later. In her desperation to seek justice, Liz went to an extraordinary assembly convened just after the events took place, where the authorities and stewards of the fiesta were more concerned about the expenses and economic losses of the fiesta that were affected by the femicide. Liz, for her part, could not believe the insensitivity of the authorities, she could not believe her surprise that what worried her most were the monetary losses and not the life of her aunt. With an altered voice she sought to call the attention of the elders. In her anger she hurled vituperations at everyone, and tears ran down her eyes at the lack of empathy and response. Liz wanted a plaque to be placed in memory of her aunt in the plaza where she was murdered. These efforts continue.

The traumatic moment recounted happened more than two years ago. At the time of the interview Liz recalls that the authorities complained about the lack of respect and tact with which she had treated them. For Liz, the pain of losing her aunt was very painful.

intense, so much so that she believes there is no return. Her love for her people was affected and something in her broke. The fabric is broken, she does not know if it will be forever, but for now it is damaged. For now the community is not in Hidalgo, but in CONAMI where she finds friends who help her to understand, to digest and to dimension what happened.

Gender justice, autonomy and community from the scales of femininity.

In this section we would like to reflect on the life experience of young women and their perspectives on "the community" - whether indigenous or of a more metaphorical nature - as a social and political space. The ac- tivism of organized young indigenous women in Mexico plays a very important role in revealing and unveiling the most salient contradictions both within the mixed indigenous movement and in the communities to which they belong (Bonfil, 2003, 2017). Autonomy with "young" women's eyes in CONAMI ex- pandes much more the senses of radicality embodied in the revolutionary indigenous women's law enacted by the Zapatistas. The Zapatista effect on gender justice continues to inspire indigenous women to achieve better conditions of equality and justice options for both their peoples and themselves, from the intersectionality of their identity, and politicizing demands such as control over their bodies, the right to have a presence in positions, legitimize their youthful voice in adult-centric spaces, and achieve economic and political empowerment.

As we have shown, the struggle for autonomy from the experience of young women has several interconnected scales: the body/person; the community/socio-political; and the organizational dimensions/praxis/strategy. This trilogy of spaces combines the complexity of the dimensions and spaces where indigenous women's activism takes place and marks in a differentiated way their demands and expectations, whether in the face of the community and/or in dialogue with institutional actors (Gutiérrez & Palomo, 1999, p. 59). In the foreground is the dimension of the body/person, which in Yadira's words is concretized in the new way of approaching the subject of female sexuality, reproductive life and sexual rights. Sexuality in the lives of indigenous women is the inauguration of their adult life: in many cases it is a matter of motherhood and marital life that comes at an early age. Sexuality is a terrain of life and struggle that should not be seen in an oppressive way - as perhaps older women experienced it - and that now for young women represents a terrain of dispute for change. Sexuali

Indigenous diversity seen through the lens of enjoyment, sexual diversity and respect for the biological and mental maturity of women, can help to change from within social uses of early marriage that are harmful to the proper physical and mental development of women. The diversity of sexual orientation is linked to the enjoyment and the right to live loving relationships outside the heterosexual canon, and in the voice of activists like Yadira it becomes a central issue to discuss, review, reflect and explain until it is naturalized within the collectives.

On a second level is community autonomy. A very important part of the political life of the indigenous community is the functioning of the traditional decision-making power spaces, the community assembly, the cargo system, the ejidal authorities and even those of the municipal councils. This is a vital space for the political reproduction of indigenous life, and a space of resistance against the State and its economic and developmental interference policies. In this regard, we would like to take up Eduardo Zárate's (2005) idea of community where the rationality of the collective is re-created as an opposition to modern individualism. Community is a powerful social ideal that inspires indigenous populations to form collectives, but it is impossible to achieve due to the existence of conflicts, contradictions and power relations. Linking the idea of the impossibility of the ideal collectivity due to internal contradictions - such as gender and age - we wonder about the possibility of other imaginaries of community (fluid urban-rural, physical and virtual, local and global); other subjects of rights (migrants, women, girls, youth, lesbians, transgender) where individualism is not a pretext for exclusion but an invitation to include "other" collectivities.

The third level is organizational and political praxis. CONAMI is undergoing a generational change and these new generations are taking on the challenge of fighting for women's rights with new arguments and technological resources at hand. This is the political intersectionality of CONA- MI activists who react creatively to national issues and institutional policies that affect them. An example of this is an initiative called: "Community Gender Emergency" which is a virtual space that has a portal on Facebook that allows all CONAMI affiliates and colleagues to feed this site with journalistic notes and complaints from family members - in order to document and disseminate the worsening conditions of violence in the country.[11]

11 Available at: https://bit.ly/2JxzRcb

CONAMI embraced the issue of gender violence in 2012, after the social and human impacts of the fight against drug trafficking in Morelos, and its purpose was to make the indigenous reality visible in a context where national policies aimed to increase the militarization of indigenous territories and those held as drug producers (Mora, 2013). The open and frontal war against organized crime quickly began to take on particular dimensions in the forms of incorporation of women in the political economy of drugs and the precariousness of the peasant economy (Tlachinolla, 2017; Jiménez Estrada et al., 2019).

The objective of the initiative is twofold: on the one hand, it sought to compile notes from local and regional newspapers in order to gather information from different territories, and on the other hand, to respond to the need to document the issue of gender violence from local spaces. CONAMI's network of indigenous women is conducive to developing this task because each of the regional coordinators is a node in a dynamic spectrum of resource and information exchange. Each leader is in turn part of another state or local organization that is located on a geo-political scale smaller than the national one. The CONAMI-node leaders simultaneously respond to local and national interests. This way of working enhances their presence throughout the national territory and at different organizational and geographic scales. This initiative that emerged in 2012 needs to be enriched through technical and methodological support, so much of the collaboration that CONAMI's young women leaders seek is to identify ways to develop methodologies for recording and collecting information on acts of violence against indigenous women in various territories and migratory routes.

The literature points out that the new violence in indigenous areas is partly due to militarization, and that the violence and sexual torture exercised by the army against women is a strategy of territorial control against the population in order to prevent them from organizing (Hernández, 2017a; De Marinis, 2020). For its part, domestic violence now has other, more dangerous connotations. Men at home are armed, they are part of groups of armed men whether they are hired killers, or are police or military. In this context of hyper-masculinization of violence, it is more difficult to carry out advocacy work both for young people victimized and used by organized crime and for women terrorized by violent partners (Hernández, 2019, 2017a).

The young women have been at the forefront of pushing this reflection on the new violence, the extreme violence that afflicts the communities - trafficking, femicide, forced disappearance, ethno-porn networks - due to the presence of the army, but also due to the presence of organized crime. Likewise, violence within the communities plays a role, which can be explained by the patriarchal order of indigenous households, by the paternal figure in the home. And normally this violence is not talked about, it is silenced, in addition to the fact that it is very difficult to raise it within the community, as Liz showed in her testimony.

Within CONAMI, all these issues are aired and documented through the ECG portal, and in recent years they have promoted various methodological and technical efforts to systematize this information. Generating their own data for CONAMI is crucial politically because it allows them to have instruments to let the State know of its inoperativeness in preventing gender violence and femicide against indigenous women. Public policies such as the mechanism of the Gender Violence Alerts against Women of the National Commission to Prevent and Eradicate Violence (CONAVIM)[12] have been pointed out on several occasions as inadequate to understand and address violence against indigenous women due to the insensitivity to distinguish the particularity of the problems and patterns of violence in rural contexts (Figueroa, 2019; Figueroa & Sierra, 2020). State policies against gender-based violence are of a universalist, unidimensional character that little adopt perspectives that are intersectional, intercultural and contextual. CONAMI has insisted that in order to make public policies that respond appropriately to sensitive issues for Mexican women, it is necessary to start from the principle of consultation. In order to respond to the demands of indigenous women, research must be carried out in the territories in order to improve information and inspire laws and institutions that respond to the popular mandate of service, since "...nothing about us can be published unless it is consulted" (Hernández Pérez, 2020).

Conclusions

We would like to conclude this essay by returning to the question of the change of era, the generational changeover and the bridge that links women's activisms

12 Available at: https://bit.ly/37ldTBB

with the young women of CONAMI. We wanted to show the preeminence of the structural forces of the present time due to the effect of the human rights crisis that the country is going through and the social effects of post-knowledge public policies. We believe that the greatest contribution of this reflection lies in what the women of CONAMI, of several generations, do and weave together, even and in spite of speaking from different optics and double points of view. The generational change of leadership means the opening of spaces and opportunities for young people in training, and entails dialogue and rapprochement. CONAMI has implemented it in the creation of working commissions that expressly include young people in order to place the issues and reflections, and not to take for granted what is taken away from them by the blow of change.

The activism of CONAMI's young women incorporates and mobilizes notions of gender justice more clearly. Their political life experience brings them closer to organized women-only spaces, and to a lesser extent to mixed collectives. Working with women, whether in grassroots or health care spaces or with organized urban groups, makes them more involved in public policies on gender equality and the prevention of feminized violence. The experience of the women leaders behind the ECG portal speaks of their agility to implement and explore strategies that open new axes of political work using tools such as virtual activism. The political intersectionality of young women draws on the contributions of older women and the benefits of past struggles, but it certainly requires dissecting the issues of now and what it implies for their lives today. The dignity of the struggle of the majoras, their ideologies and example are present, as present as the Revolutionary Law of Indigenous Women and with all the ideology of liberation that it implies inwardly and outwardly. But the generational relay also implies the change of baton and transferring the responsibility of understanding and facing the "violences that we do not know how to name them" (Don Juan, 2017).

In the same vein, Sanchez (2005) would argue that the double gaze of young indigenous women contributes to work on the contradictions of the community paradigm from the most sensitive point, from the communitarian citizenship of women: in what ways should it be exercised so that there is an appropriate inclusion of women's demands - both in the traditional community and in the imagined communities? What forms of participation should be sought and discourses articulated to make their contribution more visible? Perhaps the res-

The only way to achieve this is through an ethic of dialogue based on the heterogeneity of each community and built with the elements of each organization. Taking as a reference the diversity of local power spaces, the work of women is always - as a matter of principle - for the benefit of the community, and it would be ideal if gender violence and feminicide were also considered as a problem that threatens the very existence of the people.

Gender justice -or feminist justice- from the State has a lot of prejudice to approach and look at the community space, both traditional justice and indigenous women. The country is very diverse and at the local level there are indigenous women who seek different mechanisms to make their claims and notions of justice heard that do not take place in State institutions. The mediation, advocacy and mobilization of information carried out by CONAMI from an intersectional and intergenerational perspective is crucial to alert against hypervigilance on the community from the State, because without knowing the specificity of these spaces and how they culturally settle the pro- blems, mechanisms are designed that can potentially interfere negatively in the communities (Sierra, 2017; Valladares, 2017). Our assessment as authors is that young indigenous women, from their double gaze, are eagerly seeking to mobilize discourses of inclusion, dignity and justice at a difficult time for communities organized and disrupted by violence. Their voices challenge the adult-centeredness of the elders, and demand special attention from the organized indigenous movement and state institutions, for the good of their peoples as well as themselves.

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The *thaki* (path) of indigenous autonomies in Bolivia: a view from the Jatun Ayllu Yura territory. of the Qhara Qhara Nation

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Introduction

The path towards indigenous autonomies in Bolivia is marked by the struggle of Indigenous Peoples, who face a variety of obstacles for the formalization of their processes within the framework of the Plurinational State. On November 27, 2019, the draft Autonomy Statute[1] of the Original Indigenous Peasant Autonomy of the Jatun Ayllu Yura, which is part of the Qhara Qhara Indigenous Nation located between the departments of Sucre and Potosí, was declared compatible with the Political Constitution of the State by the Plurinational Constitutional Tribu- nal (TCP) through the Plurinational Constitutional Declaration 0081/2019. The review of the constitutionality of the autonomous statutes in Bolivia is one of the five stages[2] to access autonomy as established by the Framework Law on Autonomies and Decentralization of 2010 (Law No. 31). Ten years into the autonomy model, out of eighteen indigenous peoples that expressed their will to become autonomous, the most important are the indigenous peoples of Bolivia.

1 Basic institutional norm of the Autonomous Territorial Entities at all sub-national levels of government, constitutes a fundamental requirement for access to autonomy, which must be elaborated in a participatory manner and in accordance with the guidelines of Law 031 Framework Law of Autonomies and Decentralization. No. 031.

2 The five stages consist of: referendum for the conversion to autonomy, elaboration of the autonomous statute, constitutionality review, approval of the statute, and implementation of the autonomous statutes (Villagómez, 2018).

In the case of the indigenous communities, only three managed to pass all the stages (Charagua, Chipaya and Raqaypampa), a highly worrisome situation. Recent research, as well as the pronouncements of indigenous leaders themselves, show that this situation is due, on the one hand, to bureaucratic gaps and, on the other hand, to the strong State supervision of the autonomy processes.

Faced with this situation on February 6, 2019, the Qhara Qhara Nation undertook a protest march from the city of Sucre to the city of La Paz, demanding the repeal of the articles of Law No. 31 "Framework Law of Autonomies and Decentralization, which impose requirements on indigenous autonomies over their own rules and procedures.[3] A fundamental part of the march was the demand for territory, a process that was unfinished due to the conflicts unleashed by the reorganization[4] for the collective titling of the territory of the Marka Quila Quila (another territorial unit of the Qhara Qhara Nation), with union-type organizations backed by the government of the Movement Towards Socialism (MAS) - political party of former president Evo Morales-Ayma (2006-2019) - and the National Institute of Agrarian Reform (INRA).[5] Thus, the march became a voice of denunciation of the shortcomings and weaknesses in the implementation of indigenous autonomies.[6] The march achieved the modification of Law No. 31, which required a second referendum for the approval of the autonomous statutes.[7]

The unprecedented aspect of Yura's autonomous process is that it is part of a common strategy of the Qhara Qhara Nation to achieve the re-constitution of the entire Qhara Qhara Nation.

3 The march also included other demands such as the repeal of Article 10 of the Jurisdictional Demarcation Law (Law No. 073), which imposes excessive limits on the exercise of indigenous justice, despite the fact that the Political Constitution of the State (CPE) establishes that indigenous justice enjoys the same hierarchy as ordinary or state justice (Article 179.II).

4 Land titling is a technical legal process of regularization and titling of land ownership, which began in 1996 with the enactment of the INRA Law. In the beginning, this law was intended to put an end to large estates; currently, land titling remains unfinished due to the bureaucratization of the process and the high degree of conflicts involved in its implementation (See: Colque et al., 2016).

5 The history and territorial organization of the Qhara Qhara Nation is elaborated within the systematization of the case of the Regional Movement for Land and Territory (Movimiento Regional por la Tierra y Territorio). https://bit.ly/3kiDnoj

6 For analysis of the Qhara Qhara Nation March, see Bautista (2019) and Copa (2019).
7 Plurinational Legislative Assembly, Law 1198 of July 14, 2019, Amending Law No. 031, https://bit.ly/34ggOLK

their territory, fragmented during the colony and the republic. As Samuel Flores Cruz, former Kuraka[8] of the Marka Quila Quila Qhara Qhara Nation, explains:

> The goal of them and us [is that] Yura will be the basis for advancing the consolidation of the Qhara Qhara nation, so that other peoples can achieve their autonomy [...] that they can advocate for political rights to pass to the nation, economic rights to pass to the indigenous autonomies, that is one of the goals, of an impact for other peoples [...] we have taken advantage of key moments, TCO [Territorios Comunitarios de Origen], autonomies, and give us our place. (Personal communication, October 4, 2018)

In this sense, Yura's proposal transcends the limits established by the Bolivian territorial order, through the strengthening of Yura's self-government, a greater articulation of the indigenous autonomies would be achieved, such as the autonomy of the entire "Qhara Qhara nation". This implies a challenge for the configuration of the indigenous and original "Nations" in the framework of the Plurinational State.

Our methodology is based on a way of thinking and writing collectively developed by Briones et al. (2007) from different places and fields linked to the processes of indigenous autonomy and activism. Focusing on the effects of the paradoxes produced by the simultaneous expansion of neo-liberalism and multiculturalism in Argentina, the authors of this methodology seek to "interweave accumulated experiences and reflections" but "without reducing, balances differentiated by role and age, but also by class, region and even gender" (Briones et al., 2007, p. 269). The implementation of this methodology has allowed us to create spaces for collective reflection with actors who contribute to the process of struggle for indigenous autonomies.

This collective writing allowed the organic development of a series of charlas conducted in a previous work (also collective) in which we analyzed the processes of autonomy and indigenous territorial management in the framework of development processes in Bolivia (see Copa, Kennemore & López, 2018). The research was carried out as part of a series of studies that sought to see the incidence of the participation of civil society organizations in the objectives of the Plan

8 Name of the main authority of the ayllus, jatun ayllus or markas; their positions are exercised in pairs (Mama Thalla), under the principle of chachaqwarmi (man-woman), together with the Council of Kurakas and Mama Thallas, according to the rotating system of thaki positions (see system elaborated within the Statute of Indigenous Autonomy of Jatun Ayllu Yura).

We began our work with the Bolivian Economic and Social Development Plan (PDES) and the 2030 Agenda for Sustainable Development of the United Nations General Assembly. At the beginning of the work, we realized that each term of the problem - autonomy, participation and development - in itself is a very broad and disputed concept. We began by recording the talks as a way of identifying the emerging themes that serve as a guide to organize the text, which were aimed at identifying and analyzing the transformations linked to processes of expanding indigenous rights, always within the limits and paradoxes that this implies. The greatest challenge we face is the sharing of the re-flexion with the main protagonists.

For this purpose, we start from the critical reflections and strategies developed by them, focusing on the three main demands of the March of the Qhara Qhara Nation; 1) the ancestral territorial restitution, 2) the full exercise of indigenous justice and 3) indigenous autonomies with self-determination. In this sense, we travel the *thaki* (path) of the Jatun Ayllu Yura from a deep look at the parameters, logics and practices that govern the autonomous processes. This dynamic process of struggle allows us to take stock of the relationship between the State and Indigenous Peoples in the last decade, which is characterized by the implementation of plurinationality in Bolivia.

The demand for ancestral land restitution and self-identification

As we have mentioned, the main demands of the March of the Qhara Qhara Nation, the recognition and effective restitution of the ancestral territories of the nations, are based on ancestry and self-identification, two central factors throughout their struggle for self-determination. Since the colonial and republican periods, for example, the peoples of the Qhara Qhara Nation have fought for territorial reconstitution based on what they call ancestral documents in which they reaffirm and support their pre-colonial condition and enunciate their self-determination. Therefore, they revalue the movement of the "caciques apoderados" of the early twentieth century that started from a "juridical interpretation of their own" (Rivera, 1991), the caciques appropriated the old legal pacts with the crown to demand their right to self-determination and maintain their collective rights to territory and government on the basis of the ayllu system (see also Gotkowitz, 2011). In the specific case of the Qhara Qhara, around

1582, the Kuraka Choquevilca and other caciques would have demanded the tax and mita, demanding ownership of the Potosí and Porco deposits because they were located in their territory. This technique allowed them to obtain certain benefits for their communities (Rasnaque, 1989).

In recent history, the movement for ancestral territorial reconstitution came after the multicultural reforms of the 1990s (Yashar, 2005). In Bolivia, the reforms are the result of the first lowland indigenous marches "for territory and dignity", which demanded from the State the collective titling of their territories and which resulted in the legal and constitutional reforms that gave birth to the form of collective titling (CIPCA, 1991). In the highlands, the ayllus of Yura were among the "entrepreneurs" of the movement for the reconstitution of the traditional institutions of the native nations of Killacas, Qhara Qhara, Chichas and Charcas, based on their original authorities and ancestral knowledge.[9] In 1997, Jatun Ayllu Yura also converged with the emergence and struggle of the National Council of Ayllus and Markas of the Qullasuyo (CONAMAQ), the main indigenous organization of the highlands, an organization that seeks the reconstitution of the territory of the Andean peoples. Thus, during a meeting between the four aforementioned nations, it was decided to move towards the reconstitution of their ancestral territory through the collective regulation of their territories (TCO). In order to have a space to channel their proposals and demands, they also founded the Council of Ayllus of Northern Potosí (CAOP), an institution that should articulate the four nations and negotiate with the State with legal tools.

However, the consolidation of indigenous territories into TCOs was an arduous task that generated more fragmentation than unification in the communities. In Yura, for example, in 2002, a commission was formed to carry out land titling; however, the commission was unable to reach an agreement on the polygon that delimits an area in conflict with the Chaquilla community, a community that defends a privileged title due to the union-based individual land titling granted after the agrarian reform. The dispute was largely due to a possible misinterpretation by officials of the then National Agrarian Reform Commission, which is why it was not possible to reconcile the boundary markers known as Carpalla and Negra Cuesta, which affected the Chaquilla community.

9 For reflections of native indigenous authorities on the challenges and advances in autonomous processes, see Batista (2017).

nities Thojrapampa and Taru of Ayllu Wisijsa-Yura. As a result, in 2007 Yura lost the opportunity to finance its sanitation process with support from Danish cooperation.

In Yura we see legacies of land policies that divide many of the communities. The period of the 1952 revolution and the 1953 Agrarian Reform, for example, were characterized by a policy of assimilation into the state and society, The 1952 revolution and the 1953 Agrarian Reform, for example, were characterized by a policy of assimilation into the State and society, driven by the granting of individual titles to the expongos (servants of the haciendas) and the formation of agrarian unions based on the expatriation of individual titles, while the demand for the territorial reconstitution of the original ayllus on the basis of ancestral documents is based on a historical claim as peoples who pre-existed the haciendas, a right that was also recognized in international human rights conventions such as ILO Convention 169.

These disputes in the different regimes of state recognition are increasingly ambiguous within the new constitutional framework in Bolivia, which currently recognizes a new subject of rights: the "indigenous native peasant" (singular and without commas). This category of rights emerged within the debates of the "Unity Pact" during the Constituent Assembly of 2006-2008.[10] According to Schavelzon (2012, p. 93) a large part of the tension remained in the fact that many of the peasant organizations did not want to stop being recognized as a nation, but neither did they want to give up their syndical organizations or their identification as peasants, since it could mean the loss of rights corresponding to one or the other of the categories.

Although the draft Constitution was proposed by the Unity Pact, it had to pass through the filter of the political parties, which made the final modifications to the draft of the Political Constitution of the State (2008-2009). This experience put us on alert, since the participation of the indigenous nations, despite being a majority in the Assembly, was channeled through the MAS-IPSP political party.[11] As Huáscar Salazar (2019) points out,

10 The Unity Pact was formed by a pragmatic alliance of indigenous, native and peasant organizations with a long history of struggle and resistance since 2004. In 2006, the Pact began the historic work of drafting a proposal for a Political Constitution of the State to be presented to the Constituent Assembly (see Garcés, 2010).

11 From the beginning, the party's IPSP (Political Instrument for the Sovereignty of the Peoples) was seen as a bridge in that it was a mechanism that provided "accompaniment" to the

we have a political regime where the old practices of political control are maintained through the corporatism of political parties, clientelism and the co-optation of indigenous organizations.

In the case of Yura, a tension is demonstrated in the need to negotiate between different groups not only within the territory, but also among the so-called 'residents', who are those who migrated to the cities to live but who maintain their link with the community while maintaining their property rights (by fulfilling certain obligations in their communities: fulfilling duties or contributing to festivities, etc.). In other cases, Colque (2007, p. 141) points out that "when faced with the demand to comply with communal duties, the resident can argue that his right to the land is protected because he is working according to the Agrarian Reform principle that 'the land belongs to those who work it'". Thus we see how state recognition plays a role that can insert gaps within the project of indigenous territorial reconstitution.

In Yura, the native authorities discovered that the support of the Danish cooperation was lost due to manipulation by the union organizations, who carried out a disinformation campaign in several municipalities: "The information that you are going to have to pay taxes, you are going to have to live off your own resources, the State is not going to give you or that is what those who do not want to live in the framework of a territoriality manage," explained Tata Cenobio Fernández, former Kuraca of the Jatun Yura, during a seminar on Indigenous Autonomy that was held in his territory (Bautista, 2017).

In the case of the Marka Quila Quila,[12] the collective land titling process has been more conflictive than that of Yura, constantly blocked not only by aggressions from union groups but also by the State. In 2014, for example, the National Institute of Agrarian Reform (INRA) annulled the process of converting Quila Quila Quila into an Indigenous Indigenous Territory (Territorio Indígena Originario Campesino, TIOC), arguing that there is also a union organization in that locality that has its own legal status. Although the figure of per

liberal system of representative democracy through the endorsement and support of candidates or the negotiation of alliances with political parties, always from the collective decisions of the grassroots (García Yapur, 2018, p. 118).

12 For the systematization of the case of the legal struggles of the Marka Quila Quila, see Flores and Herrera (2016).

The Marka Quila Quila authorities rejected the process on the basis of their rights as pre-existing peoples. As Samuel Flores, former Kuraka of the Marka Quila Quila and one of the protagonists of this struggle, explains:

> We do not need another identity, because we, as nations, as peoples, are self-determining and the State would have to act directly. According to this Decree, now the situation is the other way around, the State perhaps sees civil society organizations and not the communities. Depending on the State for legal status implies a lack of consultation at the local level against our rights to demand justice, representation and participation, according to our own norms, and a structural and bureaucratic limitation to ask for our right to land and territory. Thus we depend on the State as indigenous nations and peoples, a State that came in history after us, even if it is called republic, as before, or Plurinational, as now [...]. Indigenous nations and peoples have pre-existing territories and we do not need recognition do we? (quoted in Kennemore, 2015, p. 2).

From this perspective, we can understand another dimension of ancestry and self-identification as a mechanism of direct representation that has developed from the indigenous struggle for territorial reconstitution to negotiate with the State.

In fact, the struggle for territorial reconstitution in the Marka Quila Quila was taking place alongside other autonomy processes at the departmental and municipal levels. In the debates on indigenous autonomy in the Constituent Assembly, the demands of the elite sectors of eastern Bolivia sought to establish a federalist system to protect their economic interests from the threat of the MAS centralist development model, based on the expansion of extractivism and greater capture of royalties (Espada, 2011). Given that these demands would put at stake the control of a large amount of natural resources and productive land, MAS constituents promoted the inclusion of the other autonomous levels (municipal, regional and indigenous native peasant) in order to remove competition and political weight from departmental autonomy. Within this framework of "self-government" in relation to the other state autonomies,

13 Being the legal aptitude given to a non-profit civil entity to be subject to rights and obligations and to carry out activities that generate full legal liability, all social organizations, non-governmental organizations and foundations, etc. are required to have legal personality.

the conversion to Original Indigenous Peasant Autonomy, far from establishing a mechanism for the exercise of self-determination sought by indigenous peoples, ended up being functional to the other channels of political participation (Copa et al., 2018, pp. 67, 68).

Another effect of the "domestication" (Garcés, 2010) of the proposals of the Unity Pac- tage generated a gap in terms of the representation and political participation of the indigenous native peasant nations and peoples in the autonomous statutes of the departments and municipalities that affect their territories and, therefore, would have an impact on their territorial management and economic resources in the development plans. For the Marka Quila Quila this challenge was particularly evident in the way the Statutes and Organic Charters were elaborated and approved in the so-called Statutory Assembly[14] at the level of the department of Chuquisaca.

The reflections of these authorities highlight a generalized concern about co-optation processes and partisan politics that have generated conflict and fragmentation in their territories. They remind us that the original indigenous nations and organizations, in their commitment to autonomy and self-government, differ from Western democracy and its political party system.

Taking into account the mishaps they had in their relationship with social organizations and political parties, the Qhara Qhara Nation decided to reject representation as a social organization and self-identify themselves as originating from the Qhara Qhara Nation through the 2012 census, demonstrating their presence in the territory. Thus, the National Institute of Statistics (INE) issued them a note certifying the existence of 1478 inhabitants and, with that, the right to representation as minorities in the legislative assembly of Chuquisaca. However, the Chuquisaca Statutory Assembly did not incorporate the direct political representation of this indigenous people in the departmental autonomous statute. In response, the Qhara Qhara Nation filed a complaint before the Plurinational Constitutional Tribunal, which obtained a favorable interpretation of the rights of indigenous peoples to incorporate direct representation by law.

14 This refers to those who are in charge of the work of drafting the Autonomy Statute project, normally at the departmental or municipal level (while according to the norms and procedures of the original indigenous communities, they usually collectively appoint a

"commission" of statute or account that is in charge of this task).

and procedures, which was not consolidated because the project was not approved in the referendum for the approval of the departmental statute.[15]

At the municipal level, the Quila Quila authorities had a similar response in their request to be included in the Organic Charter of the Autonomous Municipal Government of Sucre, demonstrating their status as ancestral peoples. As in the previous case, through various constitutional actions, the Marka Quila Quila succeeded in getting the Constitutional Tribunal not to admit the action of prior control of constitutionality of the organic statute (given that Quila Quila did not participate in its elaboration and there was no consultation) and, the requirement of legal personality was declared unconstitutional, thus modifying the norms that establish this requirement for other indigenous peoples.[16] These achievements were not easy, since in the process they had to install resistance vigils and constant actions at the doors of the Constitutional Court, this struggle had the support of other indigenous nations such as the Yampara, Killacas of Oruro-Potosí, Charkas, Suras, Kirkiawi and Karangas.

Despite these achievements, in the case of the Marka Quila Quila, the path to formal territorial reconstitution and consequently the possibility of becoming an indigenous autonomous community continues to be blocked. They are still in conflict with union groups within the territory, which has left several people injured and detained. For its part, the national INRA, after declaring the nullity of the entire collective regulation process, tried to enter the territory to grant individual title to those polygons that were previously processed as collective territory for regulation, thus reversing the entire process that cost the Marka Quila Quila ten years. Moreover, as a result of this, confrontations with union groups within the territory have increased, resulting in several injured people and an increase in the number of those prosecuted by INRA, for which this people filed several complaints with national and international human rights organizations.

The scenarios that we show here are a fragment of a complex context of what indigenous territorial reconstitution in Bolivia implies, and the importance of self-identification as an instrument in the struggle for territories, not only because of the gaps that the State places in order to formally access the means for recognition of indigenous territories, but also because of the lack of access to the means of recognition of indigenous territories in Bolivia.

15 By SCP 0039/2014 and SCP 0022/2015.

16 By SCP 0242/2014 and SCP 006/2016.

The main reason for this is the fragmentation of the indigenous movement itself, mediated by the political-partisan co-optation of social sectors and the internal disputes that this generates in the indigenous autonomy process.

Demands for respect of the system indigenous legal rights and the right to prior consultation

In a context where formal avenues to the AIOC are blocked, the constitutional framework of legal pluralism has become a site of struggle and legal innovation by many indigenous leaders. Central to this framework is Art. 179.II of the CPE which establishes that "the ordinary jurisdiction and the indigenous native peasant jurisdiction [JIOC] shall enjoy equal hierarchy." Therefore, the resolutions of the JIOC cannot be reviewed by judges of the ordinary or agro-environmental justice system (art. 192).

The case of the Qhara Qhara Nation offers several examples of how indigenous leaders are building their own institutions at this level of justice. For example, among the experiences of the Marka Quila Quila we have that in 2015 a Tribunal of Indigenous Original Peasant Justice of the Plurinational State was created in Sucre, an institution that now brings together several indigenous nations and peoples.[17] Various legal actions have been brought before this Tribunal and it has resolved problems within the framework of indigenous justice, which have been a determining factor in the development of a range of public policies, such as the resolution that regulates self-identification in identity documents by the General Service of Personal Identification-SEGIP at the national level;[18] the implementation of coordination and cooperation mechanisms between jurisdictions, direct participation in the training of indigenous experts and a series of inter-institutional agreements for the development of procedures for prior consultation.[19] It should be noted that the JIOC Court in Sucre is in addition to other initiatives for the creation of indigenous justice institutions in other territories; for example, in La Paz, hundreds of *aumawtico* councils (wise men) of indigenous peoples have been created.

17 Qhara Qhara, Yampara, Suras, Jachacarangas, Killacas-Coroma and even the lowland Guarani.

18 For more information on the SEGIP resolution, see Pachaguaya and Flores (2016).

19 The legal struggles of the Qhara Qhara Nation have become emblematic examples of learning at the national level, see, for example: https://bit.ly/2Te5qts.

justice,[20] calling attention to a more global impulse in terms of the creation of their own justice instances from their territories.

One of the main tools of their legal struggle is the figure of the "conflict of competences", where the authorities of the Indigenous Peasant Jurisdiction (JIOC) and the ordinary justice system dispute the competence of a specific case. Since 2012, the number of conflicts of competence submitted to the Constitutional Court have progressively and symbolically increased, achieving several resolutions in their favor through which indigenous justice is "enforced" in the face of the dominant law characterized by systematic and structural racism (Copa, 2017). In parallel, there are efforts to systematize the legal strategies developed through these struggles in order to disseminate them to other communities, while strengthening the self-determination of indigenous peoples.[21]

At the State level, however, we see great limits in the regulatory design and implementation of public policies. Article 10 of the Jurisdictional Demarcation Law (Law No. 073 of 2010) is an example of this, this norm establishes areas of competence that subordinates indigenous justice to the State. According to the report of the Ombudsman's Office on the situation of the rights of indigenous peoples in Bolivia in 2016:

> The fact that the Plurinational Legislative Assembly has excluded from NyPIOC's [Naciones y Pueblos Indígena Originario Campesinos] jurisdiction in the Law on Jurisdictional Demarcation, crimes in criminal, civil, labor, social security, tax, administrative, mining, hydrocarbon, forestry, computer, public and private international, and agrarian law, except for the internal distribution of land in communities that have possession of the land.

20 It is also worth noting that the organizational structures and norms and procedures vary (and even still are disputed) among them: The Amawtico Council of the original community of Chirapaca is reconstituted on the basis of the rebel memory of Warisata and has convocation from the Department of La Paz (see Copa, 2017); while we see new instances such as the Mixed Court of Indigenous Original Peasant Justice that acts as an umbrella for both ayllus unions at the provincial level of Inquisivi (see Copa & Kennemore, 2019).

21 See, for example, the initiatives of the Regional Land Movement (https://bit.ly/3dIAr1X) and the Interlearning program of the Institute for Rural Development South America (https://bit.ly/3dHt76R).

> legal or collective property right over them, constitutes a huge BACKWARD[22] in relation to what is established in the CPE. (2016, p. 192)

The fact that one of the main demands of the Qhara Qhara Nation's march was the modification of Article 10 of the Jurisdictional Demarcation Law makes it clear that the Law continues to be one of the greatest obstacles to the full exercise of indigenous justice. In fact, as the report of the Ombudsman's Office pointed out, it is common that in meetings and congresses among indigenous leaders they have been denouncing, from a wide range of contexts and experiences, that indigenous justice "has not only been ignored by the authorities of the ordinary justice system, but has been persecuted and repressed, disqualified by the State and its authorities" (Ombudsman's Office, 2016, p.192).

Indigenous justice actors have made several advances. There is the emblematic case of Zongo -a rural district in the city of La Paz- where the indigenous authorities were able to challenge the Law of Jurisdictional Demarcation to wrest a legal process of criminal and environmental characteristics from an ordinary judge, regarding the application of its rules of expulsion and eviction of a mining businessman.[23] The Zongo case is an important milestone in the area of indigenous justice because it generated jurisprudence that broadened the personal scope of indigenous justice:

> Decisions emanating from them with respect to the assumptions of affectation by those who are not members of the native indigenous peasant people, but their acts have been carried out in their territory and have affected the persons and property of the community by 'third parties', 'outsiders' or non-indigenous persons. (fj, III.8 of SCP 0874/2014)

That is to say, according to this jurisprudence, persons outside the communities can be submitted to the indigenous jurisdiction, under its norms and procedures.

Indigenous justice is also a space for demanding the right to prior consultation, according to their own norms and procedures. Although the right to free, prior and informed consultation is established and recognized on the basis of the "integrality of the indigenous native peasant territory" (art. 403.II of the CPE), two sectorial provisions have been promoted in its implementation (one for the

22 Capital letters in the original.

23 By SCP 00874/2014; for the case, see Pachaguaya and Marcani (2016).

The mining law has been amended to include two different types of laws (one for hydrocarbons and the other for mining), which have distorted the process, turning it into a process of no importance. For example, in the Mining Law, the final decision on the installation of a mining operation is assumed by the authority of the sector, becoming a merely informative process of the operations of the work where compensation and indemnification are negotiated (Campanini, 2014).

Consultation based on indigenous justice is a true and intercultural process and it is important to appropriate technical elements as a basis for discussion to analyze the risks and benefits of a project, using the same words and elements of formal knowledge and the law, as in the case of the reconduction of the consultation in the Indigenous Territory of Charagua Norte, where the socio-environmental monitors for the management of natural and environmental resources led the consultation based on Zonal Assemblies, which facilitated the participation of all affected communities; For this purpose, complementary technical information on the project was requested from the Ministry of Hydrocarbons (CEJIS, 2012).

In the Jatun Ayllu Yura, the indigenous authorities made an agreement with the Chemical Engineering and Mining Engineering careers of the Tomas Frias Autonomous University to conduct studies on the impact on the environment, from an Interinstitutional Agreement signed on June 28, 2017, in it they agree to conduct studies of contaminated waters in indigenous territories due to the effect of mining activities. One result of this agreement has been the report on the environmental conditions of the waters of the Puntura Community, Wan-qallapi and Keuñamayu River sector, which establishes the existence of polluting elements in the water, which was the basis of the environmental complaint that this community is facing before the Mining Administrative Jurisdictional Authority (AJAM) for environmental damage and the lack of prior consultation for the actions of this Company and the State.

The strategies adopted in the latter case have gone beyond the local level, leading to a field of action articulated with the Tribunal of Indigenous Justice of the Indigenous Nations and Peasant Indigenous Peoples and the authorities of the Qhara Qhara Nation.

Indigenous autonomies with self-determination

The claim presented in relation to the requirement of legal personality as a prerequisite for the consolidation of the Indigenous Territory in the case of

The Marka Quila Quila demonstrates how formalisms can become an instrument of power to protect political and economic interests.[24] As we have already established, there are obstacles in the construction of autonomies due to the institutionalization from the State of the channels of access to it. This is also reflected in the supervision exercised from the Central level of the State such as the State Autonomies Service (SEA) of the Supreme Electoral Tribunal, the Vice-Ministry of Autonomies that deploy the processes of conversion of jurisdiction to the AIOC to a policy of control and supervision, making the access and exercise of indigenous autonomies difficult for the indigenous peoples.

As Samuel Flores Cruz, former Kuraca of the Marka Quila Quila and Permanent Secretary of the Tribunal of Indigenous Peasant Justice of the Plurinational State, points out, "The laws of autonomy, jurisdictional demarcation and others contain obstacles. The requirements are tiring, with unnecessary formalisms and different from the procedures of the indigenous peoples, which are direct". In this context, we can understand, to a large extent, the legal struggle of the authorities of the Qhara Qhara Nation, which is a struggle to overcome the requirements and state norms that impede their agenda for ancestral territorial restitution.

The case of the Marka Quila Quila shows the tensions within the framework of autonomies rooted in a logic of municipalization implemented in Bolivia since the 1990s from the reforms of popular participation. On the other hand, given the economic interest on natural resources within their territory, in the current regulations, we recognize a tendency to municipalize indigenous autonomy through the adaptation of indigenous institutions to state institutions.

In addition, extractive policies on strategic resources in indigenous territories are a structural problem that directly affects the rights of indigenous peoples in relation to the integral management of their own territory. The orientation of Law No. 031 Framework Law on Autonomies and Decentralization, for example, limits indigenous territorial management and their control over their territories.

24 In the political field, when the MAS government has threatened several NGOs with the same procedure. See, for example, the interview with Susana Eróstegui, director of the research organization Unión Nacional de Instituciones para el Trabajo de Acción Social-UNITAS from 2015, https://bit.ly/3dIAQS1. In the economic field, how much this requirement was put as a condition in the recent action raised by the peoples in the case of the Rositas hydroelectric plant. See the news at: https://bit.ly/3m8yAXo

natural resources. For example, there are 18 exploration and exploitation contracts in 20 lowland TIOCs, similarly as of 2008 4100 mining petitions would have been identified of which 32% are in respondent TIOCs (Campanini, 2014).

The statutes of the Indigenous Autonomies grant administrative competencies in the area of renewable natural resources (livestock, some forestry, fishing, etc.). However, in the case of non-renewable resources, these are the exclusive competencies of the Central Level of the State in function of the sectorial authorities (mining, hydrocarbon, etc.). Furthermore, since they are indigenous peoples, they are asked to "preserve their habitat and landscape" based on their cultural practices,[25] as if these territories were isolated from extractivist development policies and the intervention of various forestry, oil or mining companies. What the legal framework in Bolivia evinces is a folkloric vision of indigenous nations and peoples, who, in practice, cannot veto extractive projects present in their territories (see also Engle, 2018).

In this sense, we are also struck by the tendency to homogenize very diverse concepts such as "territory", "development", "living well" and even "autonomy". By codifying these concepts into norms, they become parameters that can be used to cover up or prevent progress towards the full exercise of indigenous self-determination, particularly when this goes against the political or economic interests of business and state actors. As the former Minister of Communication of Ecuador, Mónica Chuji, for example, says, the "...philosophy of 'Living Well' has been used by populist governments to cover up the expropriation of natural resources and indigenous territories" (ANF, 2018).

In view of this, we ask ourselves, are the Indigenous Peoples going to subject themselves to the visions and concerns that come from the communities, or are they going to adapt to the parameters imposed from "above"? The risk, in short, is that when they talk about taking care of the environment, they are talking about using the territory and resources within the framework of municipalization (to manage water and garbage) to guarantee access to health and basic services. That is to say, based on limited competences without being able to deepen indigenous autonomy beyond, for example, in the horizon of indigenous territorial reconstitution. Des-

25 Art. 88 numeral VIII paragraphs 1 and 2.

From this perspective, we can understand the state position that imposes a bureaucratic gap that can be instrumentalized to prevent autonomous processes outside the state and, in short, to subject indigenous autonomous development to state parameters, to a "politics of subjectivity" (Briones et al., 2007, p. 270). In other words, with so many requirements and parameters that indigenous peoples have to comply with for the formalization of their autonomy, they lose sight of the relationship between autonomy and territorial management.

Added to all this is the real cost of consolidating the territory and sustaining the struggles. In the case of Yura, the withdrawal of support from the Danish cooperation was a delay that affected the progress towards the consolidation of their territory, not to mention the "cost" that comes later. At each stage, it is the people themselves who have to manage their own expenses (transportation, food, photocopying and paperwork). According to Franz Rosales, political scientist and technical advisor at the Vice-Ministry of Autonomies, although there are "open doors" in the three paths that indigenous peoples can take to access autonomy (municipal, TIOC, or regional), there are major obstacles: "first the money, second it is very risky, you fight up to eight years to get the statute, they return to the court and in a referendum the whole fight can fall" (Personal communication, January 21, 2019).

Indeed, a mapping of the external actors involved at each stage demonstrates the possibility that a number of institutional, financial and political factors may intersect in a given context, conditioning the opportunities and limitations of indigenous autonomy to strengthen the path to self-determination of indigenous peoples (Villagómez, 2018).

This is the case of Totora Marka (indigenous autonomy located in the Department of Oruro), where the entire struggle was lost in just one day when the autonomy statute was not approved in the second referendum, after the Constitutional Tribunal. Among the factors of this failure is the fact that it was seen that indigenous autonomy would go against the economic-political interests of the mayor's office and external groups, also the long time it took to carry out the whole process, opened a space for campaigns against indigenous autonomy.

For the indigenous authorities, the requirement of state supervision of a second referendum ignores their own rules and procedures. To address the problem with those who did not agree with the collective sanitation in

In Yura, for example, the authorities had to carry out a series of workshops, meetings and town meetings, in which they explained the issue of the territory and collectively analyzed the future of their children. Martha Cabrera, former Mama T'alla of the Qhara Qhara Nation and native of the Jatun Ayllu Yura, took on this challenge and ensured that there was greater participation in the process, she was in charge of going to look for the residents in their homes in the city to discuss the issue with them. After this dialogue process, the residents agreed to go down to the territory and speak in the communities themselves. Another challenge came later, when communities that wanted to opt for individual sanitation had to re-integrate into the ayllu governance system, which meant attending meetings of the council of indigenous authorities.

Faced with all these obstacles, between 2010 and 2012, a new strategy emerged, a new way of acting organically. The Qhara Qhara Nation then promoted the strengthening of its organic reconstitution councils in the Jatun Ayllu Jura territory. This internal reconfiguration, together with the collective titling through the TIOC, are decisive for Yura to be able to face a new legal struggle towards indigenous autonomy. Thus in the cabildo of November 26, 2016, and is embodied in a minute written in Quechua language. For the elaboration of the organic statute, two commissions were formed, an Im- pulsing Commission and a Drafting Commission, elected from the communities to carry out the final steps for the consolidation of the AIOC.

Another important element to take into account is the rotating governance system of the *thaki*, which is governed by the Aymara-Quechua principle of *chachawarmi,* or rule in pairs (Berman, 2011). However, the gap between this ideal and the reality of machismo in daily life and male domination in the organizations shows that the discourses on complementarity within these movements could conceal these dynamics (Berman, 2011). In the case of the Jatún Ayllu Yura, in contrast, Cabrera, in his role as an authority at different moments of the process, has contributed to the internal concertation to promote the indigenous autonomous process. Similar to what Shannon Speed (2008) has taught about indigenous women within indigenous organizations in Chiapas, Mexico, these women combine human rights discourses with the principles and values that govern their own indigenous institutions to demand respect and participation in the face of persistent exclusion.

Challenges of the indigenous autonomy process in Bolivia

The experiences of Jatun Ayllu Yura and Marka Quila Quila of the Qhara Qhara Nation show us that, within the autonomy implementation process in Bolivia, there is no direct representation of indigenous peoples as a minority in departmental and municipal autonomies. In this sense, the lack of a decolonized institutional framework that guarantees political participation without the mediation of political parties before the executive and legislative bodies of the local powers, as established by the Constitution when it recognizes intercultural democracy, alerts us.

There remain many challenges to overcome: First, territorial reconstitution without cooptation and partisan political clientelism that generates conflict and fragmentation in the territories. Direct representation means that organizations and territories are abandoned by their representatives. In the ten years of MAS government, many indigenous representatives in parliament have moved away from their mandates, which has allowed for the "factory of laws", many of which go against the agendas of indigenous peoples for self-determination.[26] These experiences reflect the dispute with formal democracy regarding the resistance of political parties to incorporate direct indigenous representation, and above all the urgency of creating institutional bridges between democratic forms, to highlight the spaces for action and mutual incidence between formal democracy and community democracy.

At the same time, the Zongo case calls attention to another obstacle faced by the authorities of the JIOC, the CPE establishes that the judicial and administrative authorities of the State have the obligation to give their immediate attention and cooperation to the authorities of the Indigenous Justice when they request it (art. 192 of the CPE). However, the Ley de Deslinde does not clearly establish the mechanisms, contributing to the weakening of the indigenous justice system, both in relation to its exercise of jurisdiction (being the compliance under the order of a Constitutional Court ruling in favor of the JIOC in a specific case) and in the trust of the community members towards their authorities to solve specific cases. In addition, another problem comes from the fact that there is no budget nor

26 Researcher in a weekly to analyze strategies to strengthen the indigenous native peasant jurisdiction, APDHB-UNITAS, La Paz, November 16, 2018. According to him more than 1700 laws and decrees have come out during the three administrations of the MAS government.

This is something that the indigenous justice authorities have pointed out as a central obstacle to the materialization of hierarchical equality, while at the same time clearly demonstrating the lack of will on the part of the State to achieve it in practice.

In the case of Yura, following the path towards indigenous autonomy is not only about seeking economic self-management, but also about having their own professionals from the ayllu. According to Martha Cabrera, who also supports the activities of the Tribunal de la Justicia Indígena Originaria Campesina and is a native of the Jatun Ayllu Yura, this has been one of the most important lessons learned along the way:

> If at any time an institution comes that may want to support us, they should know that they can only be collaborators, and not that they make the decisions. They could not take any action if the consultation of the territory is not approved. In this way I have consulted the authorities, [they] put so much trust in the support - at some point my authorities would say I will sign it for you, "I will sign it [you] manage it" we were acting irresponsibly. (Personal communication, November 5, 2019).

The problem he is highlighting is something very common within many social organizations since the arrival of NGOs in the 1990s, which, working as technicians, spend more time outside their communities and make decisions without consulting the grassroots or according to personal interests (see Postero, 2009).

Martha Cabrera was present the same day when the TCP's declaration of control of constitutionality of the Yura Autonomous Statute came out, and she told us about another struggle they had to take to avoid other obstacles, since the declaration took too long to provisionally approve their Statute, strategies that could harm the process. For many indigenous authorities (particularly those who live far from the city of Sucre where the TCP is located) the lack of time, resources, and technical knowledge to overcome these types of institutional and asymmetric gaps are part of the major obstacles they will have to face on any road to formal conversion to Indigenous Autonomy.

New struggles

After the resignation of Evo Morales-Ayma on November 10, 2019, the political crisis in the country, clearly marked by a polarization of political and economic power, has been pro- fused.

The new regime of Jeanine Añez has racist and classist overtones. In this scenario, the Qhara Qhara Nation, through their representatives, present their demands to the new government, under the premise of continuing with their projects of struggle "no matter which government is in power".[27]

These new struggles are reflected, for example, in the pronouncement of November 22, 2019 of the Qhara Qhara Nation, which, together with other indigenous peoples at the national level, came out in defense of the Whipala, flag of the indigenous peoples and constitutionally recognized patriotic symbol. This indigenous symbol had been removed from the main State institutions, and the indigenous peoples rejected the use of the Whipala by left and right wing politicians.[28] Similarly, other sectors came out to defend their flag, for example in the city of El Alto there was a series of protests called the "rebellion of the Whipalas" which was echoed throughout the country. This social force made the government of Jeaniñez Añez back down and forced politicians, police and officials to apologize publicly and reinstate the Whipala.

Indigenous peoples have been weaving a resistance against the current regime, learning from past experiences, and at the same time facing new gaps and limitations. Regarding the legal challenges faced by the authorities of the Jatun Ayllu Yura, they have managed to advance towards the final step towards the conversion to the Autonomous Indigenous Original Peasant Autonomy-AIOC under the transitional government, given that this step consists of the review of the constitutionality of their statute by the Plurinational Constitutional Tribunal. In this sense, the reconfiguration of political parties at the Executive level has not affected them. At the moment of the approval, they had to install themselves in the Tribunal's chambers to demand that the signatures of the magistrates be adequate (avoiding a possible setback in the future due to the lack of a detail in the process), which calls attention to a continuity in the way in which they have to watch over the procedures that are imposed from above as obstacles to their access to indigenous autonomy. That is to say, in terms of their strategies of struggle through constant pressure on the State's justice authorities.

27 During the political crisis of October and November 2016 the Qhara Qhara Nation authorities also called on President Morales to resign; see ANF news story at: https://bit.ly/35l0vMT

28 *Southern Mail*, 2019: https://bit.ly/35jW0C6

In addition, on March 6, 2020, a series of hearings were held before the Inter-American Commission on Human Rights in Haiti regarding human rights violations in Bolivia. At this meeting, leaders of the Qhara Qhara Nation presented their complaints against the government of Evo Morales as part of their path to bringing a case to the Inter-American Court of Human Rights, a process that was already underway before Morales' ouster. It was evident that the government of Añez wanted to take advantage of the indigenous people's denunciation, since the other hearings were against him for the massacres of Sacaba (Cochabamba) and Senkata (El Alto) under his government.

During the hearing, the Qhara Qhara Nation authorities reminded the public and the government itself that they were not part of a political party. On the one hand, this is a challenge to separate their agendas and demands from these polemic processes of polarization and to prevent their demands from being appropriated for partisan purposes. On the other hand, it demonstrates the importance of international human rights institutions for Indigenous Peoples in demanding that governments respect their fundamental rights, since the Commission asked that they respond to the demands of the march, with which we began this text.

Conclusions

In this chapter, we have provided an assessment of the challenges and progress of indigenous autonomy from the perspective of indigenous peoples.

- The indigenous autonomy project is part of a strategy to strengthen the autonomous process of the nations as broader spaces, this challenge aims to address the bureaucratic gaps and undertake to strengthen their own governments and create institutions of articulation with the State, from below.
- As shown by the struggle of the authorities of Yura Yura faces legal gaps for the collective titling of its territory, and later undertakes a legal struggle for access to indigenous autonomy, in both experiences, the authorities of Yura have challenged the Plurinational State in its policies of atomization of indigenous autonomy, the elimination of the second referendum for the approval of its autonomous statute and the equal exercise of indigenous justice.

- There is a need to articulate the state institutionality of the departmental and municipal autonomies with the indigenous autonomous institution. In this process, interlocutors have been presented, ranging from national indigenous organizations and the Qhara Qhara Nation, with institutions such as the JIOC Tribunal, universities, among others.
- The use of legal tools, such as the activation of constitutional actions to circumvent the requirement of legal personality, prevailing self-identification, as well as the processes of prior consultation and successful experiences of indigenous justice show a construction of indigenous autonomy from below.
- Yura's experiences are oriented towards strengthening self-government, reducing state gaps in access to autonomies, and deepening their self-determination, putting at their service the legal tools offered by the CPE, while at the same time offering us an opportunity to reflect on the process of re-appropriation of the plurinational in this new stage of crisis of the project in the current Bolivian context.

By claiming to be materializing the constitution, the indigenous authorities of the Qhara Qhara Nation seek to redirect the processes of creating institutions in the Plurinational State towards their own social projects, towards self-determination. As we have shown in this paper, these institutions, which are based on ancient notions of territoriality and community forms of reproduction of social life, have emerged in response to the very barriers that were imposed "from above" in the course of the years of President Evo Morales' administration. Their fall does not mean the loss of these projects.

On the contrary, it is about opening space for the reconfiguration of efforts from below to continue negotiating with the State, whether led by the MAS party or the right-wing elites. With this in mind, we hope to shed light on other autonomous spaces where, in the face of state limits, the ayllus, communities and affected peoples build (and continue to build) their own channels of relationship to negotiate with the state and manage their territories.

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Indigenous Jurisdiction as an Exercise of the Right to Self-Determination and its reception in the Chilean penal system

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Introduction

The progress of the international human rights system in strengthening and protecting the rights of indigenous peoples - hereinafter PP. II. - invites to renew the debate about the recognition, respect and guarantee of indigenous jurisdiction in Chile.[1] In past decades, the indigenous peoples of Latin America have seen parts of their demands met with the recognition of their collective rights, materialized in international legal instruments and some Latin American constitutions. Indeed, of the 22 countries that have ratified ILO Convention 169, 15 are from Latin America and the Caribbean. In 2007, the United Nations General Assembly approved the United Nations Declaration on the Rights of Indigenous Peoples, and in 2016, the same occurred in the Organization of American States, with the American Declaration on the Rights of Indigenous Peoples. Likewise, during the last two decades of the 20th century, several countries of the continent amended their constitutions in order to recognize the rights of Indigenous Peoples. II.[2] As can be seen, despite the fact that this issue has been the subject of debate and debate, it is still a matter of debate and debate.

1 Although "indigenous jurisdiction" and "indigenous law" may refer to different issues, in this text they will be used as synonyms, insofar as they are designated to name aspects of a single legal phenomenon: the legal expression of the PP. II.

2 Panama (1972); Nicaragua (1986); Brazil (1988); Colombia (1991); El Salvador (1992); Guatemala (1992); Mexico (1992, 2001); Paraguay (1992); Peru (1993); Argentina (1994); Bolivia (1994); Ecuador (1994, 1998); and Venezuela (1999).

Since the first decades of the 21st century,[3] has developed very little in Chile.

The social and ethnopolitical processes since the end of the 20th century have led to a revitalization of the struggles of indigenous societies, which have increasingly explicitly aimed at self-government and self-determination, and have included the exercise of certain collective rights such as their own jurisdiction. In this sense, the question of what is the right[4] claimed by the PP. II. has been part of the discussions of anthropologists and legal sociologists at least since the 1960s, and has led to the question of legal pluralism, which will be addressed later. For now, suffice it to point out that it is the exercise of a certain juridical institutionality, which has been maintained - not intact - from pre-colonial times until now. In most Latin American countries, the processes of European colonization[5] prevented the PP. II. from exercising their right to self-determination. However, as a result of resistance or the appropriation of certain foreign and colonial elements, they have maintained juridical structures and practices different from those of the States. These structures have been identified by some scholars as true rights, although they do not configure legal systems equivalent to that of modern States (Borja, 2006, p. 663; Villegas & Mella, 2017, pp. 71-72; Melin et al., 2016, p. 14; Yrigoyen, 1999, pp. 129-142). However, in order to characterize these rights as synonymous with legal orders, it has been explained since the 1980s that it is not a matter of reviving a pre-colonial law, but of exploring the way in which the PP. II. currently apply their systems of justice autonomously (even without State authorization), shaped with their own elements, recovered and/or reworked, or directly created and

3 See Iturralde (2011, p. 34); Stavengagen (2007).

4 Understood as a legal system.

5 With the formation of national States during the first half of the 19th century, any special jurisdiction other than that of the State was excluded. The idea of the Nation-State and the principle of equality before the law, which implies the unity of the sources of law and the unity of the subjects to whom the legal norms are addressed, were constructed from the European States. The conception of Nation corresponds to an invention, which plays the role of catalyst in the transformation of the State of the early Modern Age into a democratic republic (Habermas); since "only belonging to the nation founded a bond of solidarity between people who until then had remained strangers to each other" (Habermas, 1999, p. 88). The local Creoles wielded the idea that new Mesoamerican nations had emerged, with an identity different from that of the colonizer; "but they hegemonized the idea of nation under the characteristics of the dominant group, officializing a single culture, a single religion (Catholic), an identity, a language (Castilian or Spanish)" (Yrigoyen, 1999, p. 130).

(Stavenhagen, 1990, pp. 34-35). Moreover, it is not only a matter of formulas for resolving local conflicts, but also of norms of public law, such as the competence and designation of authorities, territorial administration, protection of natural resources, etc.

During the processes of legal recognition of indigenous law, those who opposed it indicated that it was contrary to individual human rights (hereinafter HR) in that it imposes on the members of a society the obligation to submit to sanctions that were not foreseen in the law, which, as Emiliano Borja explains, "from a Western perspective seems barbaric and cruel" (2006, p. 680), and which are applied without the filter of due process.[6] This affirmation can also be applicable to those who are subjected to the state penal system,[7] , which reveals an ethnocentric view that assumes that law is an absolutely true and naturally given phenomenon. This is, in short, the old dispute between universalists and relativists; between those who maintain that human rights have an identical value regardless of latitude or political color (human rights were born with a universal vocation) and those who maintain that it is not possible to apply uniformly an institution born in the West because it is not explained in certain contexts, and this would be a form of imperialism. For Boaventura de Sousa Santos (1998, p. 195) both extremes are universalist, erroneous and iniquitous, and he proposes instead an intercultural dialogue of human rights and a cosmopolitan transformation in the practice of these rights.

In a similar vein, the Colombian Constitutional Court, during the 1990s, in some emblematic rulings, attempted to establish this dialogue between the collective rights of Indigenous Peoples (particularly the right to special jurisdiction) and the rights of indigenous peoples.

6 The Chilean Constitutional Court itself, in ruling on the constitutionality of ILO Convention 169, declares that the norms relating to self-justice are incompatible with the national legal system, because "our constitution is categorical in that it orders that all conflicts that are promoted within the territory of the Republic must be submitted to the jurisdiction of the national courts to be resolved by means of due process".

7 Critical criminology since the 1960s has given an account of how the penal system is applied in a segregated manner, see: Wacquant, 2015, especially chapter II; Baratta, 2004, chapters VIII, IX and XIV; Garland, 2010, pp. 105-159; Cuneo, 2017, pp. 191-203. On the effects of prison violence, see: Gofmann, 2001, pp. 45-69; Pratt, 2006, pp. 141-171.

HUMAN RIGHTS. The work of the Court was obviously not completed in the past decades, and we could say that the dialogue has become more complex.[8] The work of the Court was obviously not completed in the past decades, and we could say that the dialogue has become more complex. Nevertheless, it is to be expected that this dispute takes place within each society without the false premise that there are societies (or legal systems) morally superior to others; it is a construction that occurs, moreover, within conflictive and inequitable scenarios. In this context, the recognition of the special indigenous jurisdiction and the exercise of this, does not pass through the idealization of the
PP. II. and their legal systems, but is directly linked to their survival as collectives ethnically and culturally differentiated from the rest of the population, with the right to determine and protect their own cultural systems, in other words, to self-determination. Jurisdiction, then, is based on the right to self-determination, insofar as it is part of the forms of organization that the PP. II. grant to themselves; through a normative system with their own institutions and procedures, they organize themselves, administer and apply justice. Following James Anaya (2010, p. 197) "(...) human beings, individually or as groups, have an equal right to exercise control over their own destinies and to live in the insti- tutional orders of government that are designed in accordance with that right".

However, another dilemma of the recognition of the right to self-determination is the enormous gap that exists between its normative consecration and what happens in practice; to what extent the legal recognition of autonomies has allowed the PPs II. to effectively resolve their affairs and exercise their institutions. This dilemma is made more complex by the current scenario of dispute over territorial control, marked, among other things, by the significant expansion of extractive industries and the implementation of infrastructure and investment projects promoted by the States. These activities - which occupy a central place in the development strategies of several countries in the region- deepen the unequal distribution of power in society and have a negative impact on the right of the poor to define their own development priorities.

8 The Constitutional Court of Colombia, in order to safeguard the principle of cultural diversity enshrined in the Colombian Constitution, has indicated that cultural survival is only possible through a high degree of autonomy, establishing as a rule of interpretation the maximization of autonomy and therefore the minimization of restrictions. This implies that, when ethnic diversity and the general interests of the nation are at stake, it is only possible to restrict the autonomy of the communities when "...it is a necessary measure to safeguard an interest of higher hierarchy (e.g., international security); and (...) "[t]hat it is the least

burdensome measure for the autonomy recognized to the ethnic communities" (Decision handed down in Tutela T 349 of August 8, 1996).

In such a scenario, the exercise of the right of self-determination is very complex, as it runs the risk of being reduced to the resolution of minor local conflicts, in the manner of justices of the peace. Its validity is then directly related to the correlation of forces between the PPs, transnational corporations and States, and how this struggle unfolds on the battlefield that configures the law.

The question then arises: who in Chile makes the decisions regarding justice matters affecting indigenous participants? Are there practices of indigenous jurisdiction as an exercise of self-determination? Is it possible to move towards mechanisms of recognition and/or coordination between the indigenous and State justice systems?

This article discusses how the conflicts produced in some communities of different PP. II. in Chile, which maintain their own normative systems, are assumed by the state justice system through the accusation of a criminal offense; each jurisdiction system (indigenous and state) attributes to itself the authority to resolve them, producing a conflict of competences, which does not have coordination mechanisms in the Chilean legal system.

In this context, and despite the fact that the cases described do not show a recognition of the indigenous jurisdictional exercise in Chile, they allow us to visualize how indigenous law remains in force in various community spaces (outside the State), warning that certain elements or practices of the latter can be incorporated into institutional spaces to the extent that the indigenous actors themselves require it. Likewise, some advances and difficulties observed in the exercise of indigenous jurisdiction in Peru and Ecuador will be presented. These situations will make it possible to visualize how the factual ignorance of indigenous law has overshadowed constitutional norms that years ago promised a broad recognition of indigenous rights in the region, and that today show the urgent need for a new dialogue between the States and the PP. II.

Cultural diversity and justice in the *corpus iuris* of indigenous law

The rights of individuals to justice and access to justice are recognized in various general international instruments currently in force, such as the International Covenant on Civil and Political Rights (1966) and the American Convention on Human Rights (1969). But,

In addition, in consideration of their special characteristics, PP. II. have at their disposal other specific international instruments, such as ILO Convention 169 (1989); the United Nations Declaration on the Rights of Indigenous Peoples (2007); the American Declaration on the Rights of Indigenous Peoples (2016); the International Convention on the Elimination of All Forms of Racial Discrimination (1965); the Brasilia Rules on Access to Justice for Persons in Vulnerable Conditions (2008); and the Ibe- roamerican Protocol on Judicial Action to Improve Access to Justice for Persons in Vulnerable Conditions (2008); the Brasilia Rules on Access to Justice for Persons in Conditions of Vulnerability (2008); and the Ibe- roamerican Protocol on Judicial Action to Improve Access to Justice for Persons with Disabilities, Migrants, Children, Adolescents, Communities and PP. II. (2014), among others. All the aforementioned instruments have provisions that cover various aspects of the field of justice, depending on whether they refer to procedural or substantive areas of adjudication. This accumulation of norms could be summarized in the following statement: PP. II. have a series of specific rights that, among other purposes, seek to ensure adequate access to justice under conditions of equality.[9]

In the case of indigenous peoples, it is not enough to consider access to justice on an individual basis; it is essential to consider its collective dimension, as it is a differentiated conglomerate.[10] In this sense, equality implies the recognition by States of the methods of resolution, prosecution of infractions and application of traditional and/or indigenous peoples' own sanctions (Villegas & Mella, 2017, p. 71), which includes their own procedures and institutions and is closely related to the recognition of their right to self-determination.

According to Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples (2007), self-determination is a right to self-determination.

9 As Rodolfo Stavenhagen (1997) has said, the principle of equality is at the base of the human rights pyramid. The same has been sustained in the construction of the discourse of indigenous rights (in its individual dimension) at the regional level, articulated "around [...] the obligation to guarantee the full enjoyment and exercise of the rights established in the American Convention on Human Rights (hereinafter "the Convention" or "ACHR") and the principle of equality and non-discrimination" (Nash, 2009, p. 164).

10 The Brasilia Rules, for example, draw attention to access to justice for members of indigenous communities, and emphasize the advisability of encouraging "their own forms of justice in the resolution of conflicts arising within the indigenous community, as well as promoting the harmonization of the systems of administration of state and indigenous justice based on the principle of mutual respect and in accordance with international human rights standards" (Brasilia Rules, paragraph 48).

The right of all peoples to freely establish their political status and freely pursue their economic, social and cultural development. Political determination consists in the pursuit of their own ends, which in turn requires organization and institutionality. That is, in very generic terms, what we call law.[11] The law is not only a set of rules, following Santos we will say that it is:

> [A] body of regularized procedures and normative standards that is considered enforceable - that is, susceptible of being imposed by a judicial authority - on a given group and that contributes to the creation, prevention and resolution of disputes through argumentative discourses linked to the threat of force. (Santos, 2009, p. 56).

Therefore, it is not possible to conceive of an indigenous law without the existence of an indigenous jurisdiction, which in turn can be defined as:

> T]he power of indigenous peoples to resort to their internal authorities and instances to resolve disputes that arise within their territories, as well as the power to make decisions, judge and execute acts according to their traditional norms. (Moreno, 2011, p. 117).

In more precise terms, we can say that the rights of indigenous peoples before the justice system have a double dimension: an individual dimension, which guarantees indigenous peoples' access to state justice on equal terms with the rest of society; and a second dimension, consisting of the right of these peoples to grant their own jurisdictional mechanisms, on equivalent terms and in coordination with the state justice system. The first dimension consists of the rights that indigenous peoples may oppose the State in order to gain access to State justice, and which are provided for all persons in different human rights instruments, such as the right to due process; the presumption of innocence; the right to have recourse to a court of law through an effective action, among others.[12]

In addition, the Inter-American Court of Human Rights (IACHR) has pointed out that, in the case of indigenous persons, state courts must consider the particular protection needs of the subject of the right, since

11 Regarding the dilemmas that arise with respect to the traditional use of the concept "right" as applied to PP. II. See López (2017).

12 American Convention on Human Rights, Articles 7, 8 and 24 and International Covenant on Civil and Political Rights, Articles 9 and 10.

either because of their personal condition or because of the specific situation in which they find themselves.[13] This right, then, would include access to justice, by virtue of which, the
PP. II. should have protection in cases of violation of their rights and be able to initiate legal proceedings either personally or through their representative bodies. To this end, it must be guaranteed that they can understand and make themselves understood in legal proceedings, with the provision of interpreters or other effective means if necessary; the right to special sanctions; for when applying criminal sanctions to members of PP. [14]II. should take into account their economic, social and cultural characteristics, preferring sanctions other than imprisonment, with forced labor being prohibited (unless it is provided for by law for all citizens); and respect for their own law, since not only should customs or customary law be considered at a general level, but also the methods to which they are subject should be respected.
PP. II. traditionally resort to for the repression of crimes, provided that this is consistent with the national legal system and human rights (Melin et al., 2016, pp. 75-86).

In addition to the above, the IACHR Court has also pronounced on various occasions on the indigenous peoples' own law, using the expressions of custom, traditions and/or customary law. On the one hand, it has addressed legal custom in relation to traditional decision-making methods;[15] as an example, in the case of the Kichwa Indigenous People of Sarayaku v. Ecuador,

13 I/A Court H.R., *Case of Vélez Loor v. Panama*. Preliminary Objections. Judgment of November 23, 2010, para. 98; I/A Court H.R., *Case of the Pueblo Bello Massacre v. Colombia*. Judgment of January 31, 2006, 140, para. 111; I/A Court H.R., *Case of González et al ("Campo Algodonero") v. Mexico*. Judgment of November 16, 2009, para. 243.

14 These rights are established in Article 10 of ILO Convention 169. Evidently, this does not imply that the mere fact of being an indigenous person does not imply that it is not possible to apply a custodial sanction, but rather that, in doing so, judges must raise the standard of enforceability. Indeed, deprivation of liberty is considered an exceptional sanction (theoretically and from the perspective of human rights), which should be applied only when necessary and proportional; when it is applied to an indigenous person, the judge must raise the requirement in consideration of his particular condition and the impoverished situation in which he finds himself in society, and thus avoid a discriminatory application. See I.D.H. Court, *Case of Norín and Catrimán et al. v. Chile*. Judgment of May 29, 2014, para. 357.

15 According to Stavenhagen, although the custom of the PP. II. varies depending on the group in question, it is rooted in local traditions and customs and corresponds to the needs of the indigenous communities in terms of maintaining social order and harmony, resolving conflicts of different types and sanctioning transgressions.

stated that: "(...) the consultation must take into account the traditional methods of the people or community for decision making".[16] It should be noted that this paragraph referred to another case of the IACHR Court, which in turn indicated that:

> When it comes to large-scale development or investment plans that would have a major impact within Saramaka territory, the State has an obligation not only to consult with the Saramaka, but also to obtain their free, informed and prior consent, according to their customs and traditions.[17]

As can be seen, in both cases the Court linked indigenous custom with their own or traditional internal decision-making mechanisms, that is, with their own law.

Likewise, the IACHR Court has ruled on the recognition of the right to custom in its broadest sense, linking it to cultural identity or cultural rights; in the Awas Tingni case, it established that:

> The customary law of indigenous peoples must be taken into special account (...) As a product of custom, possession of land should be sufficient for indigenous communities lacking real title to land ownership to obtain official recognition of such ownership and subsequent registration.[18]

Similarly, in the case of the Saramaka People in 2007, it pointed out that the PP:

> (...) to be holders of rights under collective form over the territory they have traditionally occupied and used, which includes the lands and natural resources necessary for their social, cultural and economic subsistence, as well as to effectively administer, distribute and control said territory, in accordance with their customary law and communal property system.[19]

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sors. This implies the existence of its own institutional framework and procedures. Human Rights Commission (2004, p.19).

16 I/A Court H.R., Case of the *Kichwa Indigenous People of Sarayaku v. Ecuador*. Judgment of June 27, 2012, para. 177.

17 I/A Court H.R., Case of Saramaka People v. Suriname. Case of the *Saramaka People v. Suriname*. Judgment of November 28, 2007, para. 134.

18 I/A Court H.R., *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, Judgment of August 31, 2001. Series C No. 79, para. 151.

19 I/A Court H.R., Case of the *Saramaka People v. Suriname*. Judgment of November 28, 2007, Series C No. 172, para. 194.

In addition, the Inter-American Court has also recognized indigenous custom in relation to other matters, for example, traditional family forms;[20] non-discrimination;[21] freedom of conscience and religion,[22] among others.

These proper forms, in any case, are not absolute and totally separate from those of state law.

> Legal custom is often elaborated and modified according to its relationship with the dominant (national positive) law, and can be seen as a n attempt by subordinate societies to adapt and reinterpret the positive state norms according to their own structures, values, interests and needs. (Stavenhagen, 1990, p. 34).

Precisely, this relationship of domination and resistance between state law and indigenous law is a way of understanding legal pluralism (Sieder, 1996).

The second dimension, on the other hand, refers to the exercise of special indigenous jurisdiction, i.e., the exercise of self-determination independent of state justice. That is, to the repression and punishment of infractions committed in accordance with their systems, regulated by their institutions, and in accordance with their own procedures.[23] Both dimensions are part of the same right. In access to justice, therefore, the exercise of one dimension cannot imply the suppression of one over the other.[24] When indigenous peoples

20 I/A Court H.R., Case of *Aloeboetoe et al. v. Suriname*, Judgment of September 10, 1993. Series C No. 15, para. 58-66.

21 I/A Court H.R., *Case of Fernández Ortega et al. v. Mexico*, Judgment of August 30, 2010. Series C, No. 215, para. 200.

22 I/A Court H.R., *Case of the Plan de Sánchez Massacre v. Guatemala*. Judgment of April 29, 2004. Series C, No. 105, para. 85.

23 ILO Convention 169, articles 8.2 and 9.1

24 The United Nations Declaration on the Rights of Indigenous Peoples (2007) reaffirms these rights, establishing that IPs, in the exercise of self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs. It also recognizes the right of these groups to preserve and strengthen their own legal institutions, while maintaining their right to participate fully, if they so desire, in the political, economic, social and cultural life of the State (arts. 4, 5 and 34). For its part, the American Declaration on the Rights of Indigenous Peoples (2016) also recognizes the juridical institutions of these peoples, expressly stating that indigenous juridical systems must be recognized and respected by the national, regional and inter-national legal order (art. VI and XXII).

claim, or are compelled, before the jurisdiction of the courts of state justice, they are not renouncing their own justice. Likewise, by exercising self-righteousness for some cases, they are not necessarily renouncing recourse to the ordinary courts of justice.[25]

Thus, in both dimensions the exercise of free determination can be observed. In the first, and although it is a state scenario outside the context in which the customary legal norms and practices arise, the judge is obliged to respect and consider them, as he considers the law of others, giving them the status of a legal system. In the second dimension (exercise of indigenous jurisdiction), on the other hand, the impetus for self-determination is direct, inasmuch as a way of resolving their own affairs is exercised, in accordance with the mechanisms and parameters that the peoples themselves have granted themselves.

The indigenous peoples themselves have understood the exercise of jurisdiction as a deployment of their right to self-determination. In Peru or Bolivia, for example, some communities have chosen the strategy of safeguarding their territory through the exercise of their own jurisdiction. This is demonstrated in the Judgment of the Plurinational Court of Bolivia dated August 29, 2018, where it pro- nnounces favorably about the consultation formulated by the Curaca Cobrador and Corregidor of the Jatun Ayllu Santa Isabel community -belonging to the Council of Original Ayllus of Sud Lípez of the department of Potosí- about the resolution adopted in their community on December 21, 2017 and by which they sanctioned the mining concession La Candelaria and its owner, with the expulsion from the territory without economic compensation, for the damage caused to the fauna, the environmental pollution produced, "as well as the constant discrimination, labor exploitation, disregard for the right to self-determination and self-government". This community decision was declared legitimate by the Court, as it would fall within the jurisdictional faculties of the native and peasant nations.[26]

25 Without prejudice to the legal mechanisms that prevent the same case from having two different jurisdictional decisions, such as the principle of *non bis in idem*, or the rules of jurisdiction.

26 "Thus, with regard to the sanction of expulsion from the constitutional perspective and from the perspective of the constitutional block, being a legal institution of the indigenous peoples, it is internationally recognized as long as it is compatible with the national legal system and human rights, which constitute the limit of the JIOC (native indigenous peasant jurisdiction). For this reason, it is imperative that the constitutional justice system perform a

In the case of Chile, although all the norms on which the validity of special indigenous justice is based are part of the internal legal order (ratified international treaties), their validity and application has given rise to a constitutional debate with different positions. The Constitutional Court, in its 2000 ruling on the unconstitutionality of Convention No. 169,[27] established that treaties, for their application in the internal order of a country, may contain two types of clauses: enforceable and non-self-executing:

> The former are those that have the necessary content and precision that enable them to be applied without any other procedure as a source of domestic law. In other words, they are self-sufficient, and enter into domestic law when the treaty containing them is incorporated into the law in force. The latter are those that require for their entry into force the enactment of laws, regulations or decrees that implement them and, in such event, make them applicable as a source of domestic law. In other words, they impose an obligation on the State, in the use of its public powers, to enact the necessary regulations to give them effective effect. (Constitutional Court Judgment, 2000, Recital 48).

Meza Lopehandía, with whom we agree, states that by virtue of the provisions of Article 5, paragraph 2 of the Constitution of the Republic, the internal binding nature of Convention No. 169 and its norms is beyond any doubt, at least since the ratification of the treaty that contains them. The author adds that this is different from the various forms in which its force is manifested: self-executing norms, programmatic norms and principles that require the reinterpretation of the legal system in order to adjust to the incorporated international standard, or the tacit repeal of incompatible norms and/or the enactment of new laws (2013, pp. 343-344). On the other hand, Millaleo (2016), following the thesis of the Constitutional Court, postulates that the norm of Article 8 of the Convention would be self-executing, but of a programmatic nature, "because it is not fully applicable in domestic law: by requiring

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intercultural interpretation of human rights under the recognition of cultural diversity..." (Ruling No. 0073/2018 of the Plurinational Constitutional Tribunal of Bolivia).

27 This petition requested the declaration of unconstitutionality of the entire Convention No. 169 and, in particular, the declaration of unconstitutionality of Articles 9 and 10, because, according to the petitioners, both provisions contravene the principle of equality before the law. For more information on this point, see: Melin, M., et al. (2016, pp. 71-74.).

specific legislative enshrinement" (2016, p. 32). A more restrictive position is put forward by Valdivia (2011), who states "(...) the concreteness with which certain precepts of an international instrument appear to be covered does not in itself guarantee their application in an unequivocal manner (...)" (2011, p. 51).

Beyond the legal discussion on the constitutional value of the norms on indigenous self-rights, day by day indigenous people exercise their rights in what Villegas and Mella call "coordination from below" (2017, p. 183). The relationship between indigenous justice and state justice is not peaceful, as law becomes a dialectical field marked by disputes of power and knowledge, where the tension between indigenous law and state law is dynamic and permanent, susceptible to various social changes. States "tend to see in the recognition of collective rights the creation of an internal legal competition, a challenge to the state monopoly of the production and distribution of law" (Santos, 1998, p. 159).

From this perspective, the law of modernity suffers from fundamental shortcomings that, among other reasons, would explain why it has become an instrument of regulation rather than emancipation. First, because, especially since the codification processes in Europe, law has been identified with the nation state, as if it were the only center of normative production, and also because it has been permanently associated with the concept of scientificity, as if it were a neutral field. This law, statist and supposedly neutral, excludes the possibility of juridical pluralism, and therefore resists the idea of indigenous justice, distinct and alien to that of the state. If law is only that produced by the State, then law is not conceivable as a "plurality of legal orders, which are interrelated and socially distributed in different ways in the social field" (Santos, 2009, p. 63).

Legal pluralism arises mainly in a context of colonialism, i.e. the domination of one society by another, and the way of articulating social relations between the colonizing State and traditional rights. It is also possible to identify it in "the case of countries with predominantly or exclusively non-European cultural traditions, which adopt European law as an instrument of modernization and consolidation of State power" (e.g. Turkey, Thailand, Ethiopia) (Santos, 1991, p. 70); and in situations of socialist revolutions, as in the former USSR, and in Islamic countries, where "revolutionary" law came into conflict with traditional law. This situation is also known in

The different countries of Latin America, where the law and the forms of social control recognized and used by the indigenous peoples have been ignored by Indian law and then by state law (Yrigoyen, 1999, pp. 129-142). Legal pluralism, then, corresponds to a description of a juridical phenomenon and does not necessarily constitute an emancipatory or counter-hegemonic device. For this reason, legal pluralists distinguish between a classical legal pluralism and current -or weak- and current -or strong- (Santos, 2009, pp. 54 -55).

Currently, in the context of industrialized societies,[28] articu- lations are not marked by the correlation between the colonized and the colonizer (Santos, 2009, p. 55), but by the coexistence of different legal orders. While classical pluralism was configured on an intra-state scale, today the legal orders are intertwined among the various scales of law, both national and global. The discourses of social movements and international law, among others, configure a law that is more complex than mere State law (Santos, 1998, p. 80). It is worth mentioning that Santos describes legal plurality in today's society as the interrelation of different legal orders that occur in the three scales (local, national and global) and six time-spaces (domestic, production, community, market, citizenship, world) in which law operates. Although these spaces have an autonomous production and transformation, they relate to each other in a complementary or conflictive manner.

> Each of these spaces has its own power relations and its own struggles. Since the definition of the legal field is plural, the struggles will tend to be plural, although they are preferentially located in one of them due to the competition of different regulatory orders in the same space (Ardila, 2002, p. 59). (Ardila, 2002, p. 59).

In this context, one of the current challenges seems to be related to the coordination of state and indigenous justice systems for conflict resolution. Therefore:

28 The reference to industrialized societies is historical rather than geographical. In general, Santos points out, sociology and anthropology "divided the scientific work in such a way that the former was devoted to the study of industrialized societies, while the latter was devoted to the study of *primitive* societies" (Santos, 2009, p. 55). Thus, the classical pluralism was an analysis of the existing relations between colonial juridicity and the colonized. In today's postmodern times, it refers to postcolonial societies that are organized under capitalist forms.

> (...) there needs to be a fluid intercultural dialogue between indigenous and state justice a u t h o r i t i e s s o that there is an understanding of the matters that indigenous justice operators consider they should resolve, and accordingly, recognize those powers based on the circumstances of particular indigenous communities or peoples. This at the same time would also provide flexibility in cases where indigenous authorities consider that a particular matter should be heard by ordinary justice authorities, as part of a process of intercultural coordination and cooperation. (Tauli Corpuz, 2016, p. 2).

In this regard, the analysis of cases allows us to observe how state justice operators, as well as indigenous actors, apply and intertwine the law in different spaces.

Practices and elements of indigenous jurisdiction and its recognition in the Chilean criminal system

It is rooted in local traditions and customs and corresponds to the needs of indigenous communities in terms of maintaining social order and harmony, resolving different types of conflicts and punishing offenders,[29] , which implies the existence of their own institutions and procedures.[30]

However, as has already been pointed out, indigenous law is not equivalent to the ancestral tradition, but is eminently dynamic, and in the process of intercultural relations, "exogenous elements have been appropriated, giving it new values and cultural meanings" (Gómez, 2015, p. 198). Likewise, this relationship between different rights (legal pluralism), we know, does not occur in terms of equality, but is a relationship of domination and resistance (Sieder, 1996, p. 33).

29 Economic and Social Council (2004, pp. 54-82). "Indigenous issues. Human rights and indigenous issues Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people".

30 Economic and Social Council (2004, pp. 54-82). "Indigenous issues. Human rights and indigenous issues Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people".

Some of the legal systems described above are still in force in various PP. II. of Chile.[31] In the Aymara case, for example, Chiapa, an Andean people in the region of Arica and Parinacota, has historically administered the water resource based on the system of turns or mitas. Following customary law, each irrigator who wants to enforce his right must submit to the dictates of the community (irrigators' organization) and to what is stated by the water mayor, an authority that represents the principles of justice and reciprocity of the Andean world (Castro et al., 2017, pp. 40-41).

On the other hand, the *Mapuche*[32] also maintain current legal forms. The AzMapu is the system that regulates social relations (Antona, 2014, pp. 111-137), authentic "guidelines of conduct that are transmitted from generation to generation orally and that regulate social relations and their relationship with the natural environment" (Melin et al., 2016, p. 34). *Mapuche* justice is directly linked to *gvlam*, which constitutes a permanent process of education, and to the idea of restitution and reestablishment of balance and harmony: "the need to maintain the balance makes them operate preventive mechanisms of violence, which are manifested at the first hint of conflict, instead of immediate punishment" (Villegas & Mella, 2017, p. 140). That sense, for example, is the one that marks the type of *Mapuche* justice described by Pascual Coña for the nineteenth century, where the theft of a *waka* (cow) is resolved between the *logko* (leader or chief of the community) of the respective *lof* (community) (Coña, 2000, p. 140).

The exercise of one's own right is a living phenomenon that develops independently of normative recognition; its dynamism includes the disputes that occur in the different legal fields in which state law seeks to install its hegemony.

In this context, the following case study aims to describe the dialectical relationship between indigenous law and state law,

31 For socio-historical background of indigenous peoples in Chile, see: Comisión Verdad Histórica y Nuevo Trato con los Pueblos Indígenas (2008). Report of the Historical Truth and New Deal with Indigenous Peoples Commission.

32 Mapuche: people of the land. *Mapu* means land and *che* means people. According to the linguistic uses of *Mapudungün* (Mapuche language) this document uses the term *mapuche* in the same way in singular and plural.

specifically in the judicial field.[33] In addition to the above, and despite the fact that the cases described do not necessarily reflect a process of legalization of indigenous social demands,[34] provides a better understanding of the scenario in which the recognition of the right to indigenous jurisdiction in Chile is being confronted.

Case analysis

Social structure, family organization and property from the Aymara worldview

Three family members, inhabitants of the Estancia de Chucuyo, were accused of the crime of simple damage to the private property of Mrs. V.M.M., the damage allegedly consisted of damaging the perimeter fence erected by the latter. The defense obtained the acquittal of the three defendants, highlighting the argumentation regarding conflict resolution mechanisms and the communal use of Aymara property. During the trial, members of the community testified that "there have never been fences, and that problems have always been solved in good faith, and that Mrs. V.M.M., This was also stated by the Intercultural Facilitator of the Public Criminal Defense Office, who pointed out that "the landmarks have not been moved for more than four generations and cannot be removed because it is against the healthy coexistence of the community, it is a validated system among the families (...)" (Judgment of the Court of Guarantee of Arica, 2013, RIT 648-2013, eighteenth recital).

In the case described, the Aymara worldview was decisive. The plaintiff was occupying a plot of land that was not hers, as she arrived at the site through an uncredited inheritance, residing there merely because of the tolerance of the defendants. When
V.M.M. fenced (without consultation) a part of the land, in addition to circumventing the existing ancestral demarcation, deprived the rest of the community of an alternative path, therefore, the court understood that, if one of the three defendants pulled down the stakes erected, it was only to restore the social balance[35] . Without place

33 In this sense, it does not seek to define what "is" the indigenous right of each people (if that were possible).

34 See: Sieder (2010).

35 "That, in view of the facts of the present case and the actors in it, both the plaintiffs and

V.M.M., all belong to the Aymara ethnic group, and even when Mrs. V.M.M., has arrived in the Aymara community, she is a member of the Aymara ethnic group.

he cause described above undoubtedly exemplifies the effects caused by the application of the private property system, which have repercussions up to the present day.

The trigger for this privatization process was the imposition of the concept of fiscal property and the lack of recognition of common property, so characteristic of the Andean tradition. The Chilean State introduced a form of State-Individual and not State-Community treatment, triggering great dis- trict between Aymara families (Comisión Verdad Histórica y Nuevo Trato con los Pueblos Indígenas, 2008, pp. 123-126).

likanantay Assembly as a jurisdictional body

In an indigenous community in Socaire, an ancient tradition was carried out that was repeated during each winter solstice, involving young people and adults in the use of fire.[36] In the middle of this activity, a member of the organization had all his bales of grass burned, the production of a year's work, so he denounced the facts to the Public Prosecutor's Office, who in turn charged the crime of arson. However, the prosecution was unsuccessful because the parties talked with the community and decided to reach an agreement. In this context, the Calama Guarantee Court went to the town of Socaire and recognized the legality of the solution proposed by the parties. Through the figure of the reparatory agreement, it was agreed that the accused should pay in two installments a sum of money to the victim; the first payment was verified at the hearing (Minutes of the hearing of the Calama Guarantee Court, dated November 29, 2013, RIT 4657-2012), and the second was delivered to the community manager, who was to pass it on to the victim.

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to inhabit the lands of the succession, much later than the original inhabitants... he cannot ignore the rules that govern the community that he integrates and that by custom are transmitted to subsequent generations..." (Judgment of the Court of Guarantee of Arica dated December 4, 2013, RIT 648-2013).

36 "In Socaire the rising of the sun on the 24th occurs to the north of the sacred and important Lahusa hill, to whom they sing asking for thunder and clouds, primordial elements for the creation of rain and the return of water. In this cosmological framework, the winter solstice occupies a central place in the cultural practices of Socaire... the use of fire is limited to the young, who represent vigor and renewal for the people of the land. This practice, extended throughout the salt flats, constitutes an initiatory ritual that announces the passage from childhood to youth; the return of the sun in a new cycle and the renewal of ties with agriculture through the blessing of the seed and a new opportunity for sowing. Any accident or damage caused must be repaired as custom dictates (...)" (Garrido, 2012, p. 15).

Repression of domestic violence crimes in Mapuche-Pewenche communities

During the night of October 7, 2008, VVC assaulted his partner with blows to the face and different parts of the body, cutting him with a knife in the face and arms. The judicial formalization took place on December 20, 2012, and the judicial process culminated in January 2014 with a sentence of 50 days imprisonment. In the meantime, the community led by the *Longko* met in assembly (more than 200 attendees) in order to punish the aggressor. The punishment consisted of the suspension of various rights of participation in the community for an indefinite period of time: i) not to represent as a homeowner; ii) not to receive benefits in his name; iii) the animals belong to the woman, he loses everything; iv) he cannot vote in the community; v) he cannot be *werken* (a kind of spokesman); vi) he does not participate in ceremonies; vii) he has no right to speak; viii) he cannot hold the position of leader. As can be seen, this type of sanction deprived him of his status as a che (person) and as a member of the collective of which he was a member. The decision also included a group of *kimche* (wise people) from the community going to give *ngulam* (advice) to the couple. "I for my part am no longer who I was, for the moment I have always been humiliated by relatives", the accused pointed out about this sanction (Pérez, 2013, p. 12).[37]

At the trial stage, the defense argued that the defendant had already been sanctioned in accordance with the rules and procedures of his community, which is why, if the state court ruled, two sanctions would be applied for a

37 In the specific case, the sanction imposed was 541 days of minor imprisonment in the medium degree, as the convicted person had no other convictions he was never deprived of liberty and served his sentence by signing in a Gendarmerie office monthly, without being subjected to any type of control, preventive treatment. It is not known if after this situation there were other episodes of violence involving the same people. This contrast shows the difference between the state and Mapuche justice systems; in the case of indigenous communities and in view of the close and continuous coexistence, sanctions other than imprisonment are generally used, since what they seek is to restore the balance. In the case of state criminal justice, balance finds its origins in European thought, such as the retribution attributed to Kant. In this sense, the balance consists in that whoever commits a sanction must suffer an equivalent pain, although it has also been stated that the penalty seeks to prevent, in a general or special way, the commission of new offenses. Although this is criminal dogmatics, the discussion about the practical evolution of criminal law, contemporary criminologists realize that its only objective would be the self-confirmation of the State (Bustos, 2007, p. 72) and the *innocuousness* of the offender.

same offense.[38] The defense's argument was based on the premise that the sanction adopted by the community was a jurisdictional decision. However, the tri- bunal rejected this allegation. According to the latter, even if the sanction applied by the community was a conviction, it could not be validated by the state justice system because it would violate the right to a natural judge, and also because it would be the state courts that would have the exclusive power to resolve a criminal charge[39] . In addition, the judgment indicated that any other means of conflict resolution that the PP. II. might use for the repression of crimes committed by their members, would be incompatible with the national criminal procedure system. [4041]

In the ruling described above, two different arguments can be distinguished that would show (according to the court's thesis) that the special indigenous jurisdiction would be incompatible with Chilean law:[42] first, it reaffirms the idea that indigenous jurisdiction is contrary to the principle of legality and closure, which reserves the power to judge to the bodies established in the Constitution and the law, and whoever arrogates such powers without being legally vested with them is acting unconstitutionally. Secondly, the exercise of indigenous jurisdiction, i.e., the trial of an act qualified as a crime by bodies other than the State courts, would constitute a contravention of the right not to be tried by special commissions, contemplated in Article 19 No. 3 of the Constitution.[43] Regarding the first argument, it is about the debate

38 Violating the *non bis in idem* principle, by which a person cannot be convicted more than once for the same conduct.

39 "The defense's claim cannot be accepted since it finds an obstacle in the very norm it invokes, since it would imply disregarding norms of Constitutional rank such as Articles 19 N° 3 and 76 of the Constitution, thus evidencing the incompatibility of the custom with the national legal system referred to in the aforementioned Convention" (Considerations 15 and 16 of the judgment of the Oral Criminal Court of Los Angeles dated October 2, 2013, RIT 104-2013).

40 Seventeenth recital of the judgment.

41 See also: Nash et al. (2015).

42 The Constitutional Court referred to this same incompatibility (Judgment Rol 309-2000, of August 4, 2000, recitals 52 and 53), expressly ruling on the exclusive power of Chilean courts of justice to hear criminal and civil cases.

43 These would be "ad hoc tribunals, created to judge a specific case or a certain person or group of persons in particular, without guaranteeing the impartiality and independence of the judge, violating the principle of equality according to which all citizens in identical situations must be judged by the same court" (Lübert, 2011, p. 93).

We have already mentioned whether the norms on access to justice for indigenous peoples, as provided for in Convention 169, are sufficient in themselves, or whether they require an additional norm that establishes special indigenous jurisdiction. We have already pointed out that the norms that recognize the right of the peoples to grant themselves a system of special jurisdiction are part of our national legal system, although it is also true that there are no rules of coordination with the state justice system, as is the case in other countries that will be analyzed below. As for the second reproach formulated in the judgment, it is based on an error: the prohibition of not being tried by special commissions is aimed at preventing a person from being subjected to a criminal trial by a court that has not been specially invested for the case, so that he cannot face it with due preparation, ignoring what his interests and eventual pre-trials are.[44] In this case, the jurisdictional decisions of an indigenous community have precisely the opposite characteristics, since they are precisely the natural judge in this context: they are authorities that among the indigenous people have traditionally been empowered to impose sanctions and resolve the legal conflicts that arise within their communities.

Water use management and conflict resolution in Aymara communities

In the town of Saxamar, two brothers were in constant conflict with their neighbors over a water channel that was located on their land. Unaware of the customary practices, one day they decided to block the watercourse, depriving the community of this basic resource. As a result, one of the most affected neighbors filed a complaint with the Public Prosecutor's Office for the damage caused, and the brothers were charged with the crime of water usurpation. Due to the high possibility of reaching a reparation agreement, the Court of Guarantee of Arica went to Saxamar and heard the parties, as well as the elders and other local authorities present. In assembly, it was agreed that the conflict should be resolved under the community work modality, consisting of the two brothers involved, supported by the elders and other local authorities.

44 This is the typical objection raised against courts-martial during the dictatorship, which tried individuals for acts that did not constitute crimes of a military nature for which they had jurisdiction and whose composition was ignored by the accused. It is also the objection that the IACHR Court has formulated to cases in which the sentence is handed down by a court of "faceless" judges.

by the rest of the community, they should work to repair the damage caused.[45] As can be seen, in this case the solution to the problem did not consist only of penalizing the offending community members, but the whole community was part of the arrangement to reestablish the balance.

Agreement of Mapuche authorities as a means of conflict resolution

After several years waiting for the land fund process to be completed,[46] , an indigenous community of *Tokiwe* in the Arau- canía region, was able to access the purchase of an estate. MMHP and AEHP participate in the organization, whose family was known for causing many conflicts within the collective. Because of this, the community decided to meet in an assembly and sanction the family by deducting them from the state subsidies obtained. As a result, MMHP and AEHP filed a complaint against the community leadership for the crime of misappropriation. As the criminal proceedings progressed, relations within the collective became increasingly strained, and they formulated a proposal to resolve the conflict. Through a negotiation, it was agreed to compensate the family that had been deprived of community benefits. This agreement, concluded under the authority of the *longko*, was brought before the court for approval, just at the hearing in which the oral trial was to be held, i.e., outside the time limits established by law. However, it was also approved by the court.

First, the application of community sanctions is repudiated by the national legal system, which sees it as a crime; and, as it is not resolved, the application of community sanctions is not a crime.

45 "The defendants "O.Q.B. and L.H.B. commit themselves to allow the community to fix the entire canal from the water intake and the entire course until it reaches the users who are the ones who have rights, for that purpose they empower certain persons that the community will select and will carry out the work and they will arrange for certain days and hours and Mr. L.H.B. and O.Q.B. to allow these persons to enter and circulate freely throughout the course and surroundings of the canal (...), (....) That it is agreed to completely repair the Chijuma canal from the Quili-Jiwata ravine to the Chijuma hill, consisting of cleaning all types of obstacles in the canal, including sand, stones, weeds and whatever there is in the watercourse" (Minutes of Hearing, September 25, 2012, Court of Guarantee of Arica, RIT 9137-2011).

46 State subsidy system for the purchase of land for indigenous communities and individuals regulated by Law No. 19,253.

In the *lof (*Spanish: levo y lov), or *cavi,* is a basic form of social organization of the Mapuche people, consisting of a family clan or lineage that recognizes the au- thority of a lonco (cacique). Then, finally, taking into account that this conflict could put an end to communal cohesion, the traditional authorities decide to reestablish the balance by assuming an agreement that will leave the community sanction without effect. Finally, the state court resolution validates the agreement presented by the community, attributing to it the value of putting an end to the judicial process, expressly recognizing the validity of the Mapuche's own law (AzMapu).[47]

In the judicial cases described, certain common issues can be seen. First, these are conflicts that have occurred within indigenous communities and that, for different reasons, were resolved in a national judicial setting. Second, the conflicts originated from infractions committed within the community and, subsequently, the conduct was classified as unlawful by the state justice system.[48] In all these cases, moreover, indigenous institutions and state entities overlapped, and both institutions claimed responsibility for resolving the matter. In other words, in all these cases the indigenous jurisdiction was activated, either as a reaction to the judicialization of the case, or in anticipation of it. In some of these cases, the indigenous justice system operated as a reaction to, or in anticipation of, the judicialization of the case.

47 [The Tribunal recognizes that [...] the parties have stated that they are part of the same indigenous community and that their ancestral authority has proposed an agreement that allows for the reestablishment of balance within said community, in use and application of the AZ MAPU (Ancestral Law). That the form of conflict resolution proposed in the specific case is in accordance with numbers 1 and 2 of Article 9 of ILO Convention 169 and, transferred to our legal system, satisfies the requirements of a reparation agreement; as well as being consistent with the rights that the Code of Criminal Procedure recognizes for the victims in Articles 6 and 109. In this understanding, the Court sees no obstacle to approve the reparation agreement announced by the parties, considering that this is a legitimate and fair way in which victims and defendants, informed of their rights, agree to resolve the conflict that affected them and thus continue living together in peace and harmony, regardless of the procedural stage in which we find ourselves; especially when they are members of the same indigenous community, who seek through this agreement, to restore the balance lost within their nucleus (Resolution of the Oral Criminal Trial Court of Angol dated October 11, 2018, RIT 53-2018).

48 Under the Chilean criminal justice system, the criminal charge was formalized by the prosecutor's office before a guarantee judge, opening a criminal proceeding.

imposing a punishment or an agreement, but always in the search for a solution, or reestablishment of family or communal order. The judicial reaction, on the other hand, implied a recognition or disregard of such solutions. However, in any case, the state justice system never recognized the exercise of the special indigenous jurisdiction; when it was recognized, it did so by attributing to itself the quality of the only organ capable of pronouncing. In other words, indigenous justice was only considered as an antecedent of a private conflict resolution mechanism.

Indigenous jurisdiction, advances and regressions. Cases of Peru and Ecuador

All of the Chilean cases described in the previous section arise within a legal context in which there is no constitutional or legal recognition of legal pluralism, let alone rules of coordination. However, in other countries of the region, the situation is very different, for example, indigenous jurisdiction in Peru has been constitutionally recognized since 1993, and in Ecuador since 2008.[49]

Beyond this legal consecration, the issue of which organs may exercise justice has entailed an additional complexity: the different proposals and institutional solutions in comparative law oscillate between the extremes that mark the precision required by a justice system, and the need for the constitutional design not to annihilate the jurisdictional powers of the PP II. In Andean countries such as those mentioned above, there has been an implementation gap (Stavenhagen, 2006, p. 5) between the normative recognition achieved and its effective compliance. This gap is evident in State practices such as the criminal prosecution of indigenous authorities exercising jurisdiction, which in turn generates scenarios of criminalization and stigmatization that have repercussions on the balance and social peace of the entire collective.

In this sense, the practices of persecution of indigenous justice are of different types. In Peru, for example, indigenous authorities have been criminally prosecuted for applying a community decision adopted in an assembly, consisting of prohibiting access by miners to the territory; another case of violation consists of the prosecution of hundreds of ronderos accused of committing crimes of kidnapping, usurpation of functions, coercion, etc., when they have resolved the problem.

49 Although it was already recognized in 1998, it was only implicitly.

In the case of serious injuries, homicides and sexual violence occurring in the territories.[50] Indeed, even though the new Peruvian Code of Criminal Procedure (art. 18.3) establishes that the ordinary criminal jurisdiction does not have jurisdiction in cases that fall under indigenous jurisdiction, there are judges who admit lawsuits and judge cases already resolved by the rondas, instead of declaring them res judicata, which has meant that people have been punished twice for the same crime, in contravention of the principle of *non bis in idem.*[51] On the other hand, the work carried out by the rondera authorities has also been affected by protection measures granted by the ordinary courts in favor of persons outside the indigenous territories, which has favored the entry of extractive companies, with the consequent territorial devastation.

In Ecuador, the implementation gap has also manifested itself through the persecution of traditional authorities who, in the exercise of special jurisdiction, have punished members of the community for crimes they have committed within the territory. In this regard, the Constitutional Court of that country in Ruling No. 113-14 of 2014, stated that the jurisdiction and competence to hear, resolve and punish cases that threaten the life of any person is the exclusive and exclusive power of the ordinary criminal justice system, even in cases where the alleged offenders are citizens belonging to indigenous communities, peoples and nationalities. Notwithstanding that reasoning, curiously, in that same ruling the Court affirmed that "the indigenous justice administration retains its jurisdiction to hear and resolve internal conflicts that occur among its members" (Constitutional Court of Ecuador, 2014, p. 35). Likewise, in a public hearing convened in 2018 by the Inter-American Co- mission on Human Rights (IACHR), representatives and indigenous leaders of the indigenous people of Cotopaxi of the same country, denounced that several indigenous authorities are being tried and sentenced in criminal court for exercising and administering indigenous justice within their territories.[52] According to

50 See: Yrigoyen (2002, p. 4).

51 Classic principle of criminal law, by which a person cannot be convicted more than once for the same conduct; Inter-American Commission on Human Rights (2011) Public Hearings. Period 141 of sessions; Inter-American Commission on Human Rights (2019). Public Hearings. Period of Sessions No. 172.

52 The authorities are reportedly in preventive detention ordered by state courts in the provinces of Cañar and Azuay (Ecuador). In the words of the complainants, the criminalization would not only affect their rights to exercise indigenous jurisdiction (constitutionally recognized) but also their freedom of movement; they would not be able to enter their territory, they would be imposed on their lands, and they would not be able to exercise their right to freedom of movement.

According to a report filed by the indigenous people before the IACHR, the traditional authorities are being accused of committing crimes of kidnapping.

The situations described above invite us to reflect on how the legal provisions referring to the jurisdictional exercise of PP II. are being interpreted and applied. In international human rights law, these precepts are grouped under a similar formula: the methods traditionally resorted to by the peoples concerned for the repression of crimes committed by their members must be respected, to the extent that this is compatible with the national legal system and with internationally recognized human rights (Art. 9 C. 169 ILO). This norm, being contained in a human rights treaty, must be interpreted in a pro-person, dynamic and comprehensive manner (Me- dina & Nash, 2010, pp. 38-41). In addition, when applied in a specific case, it must be done from the paradigm of interculturality, considering the various manifestations of human rights and within a context of non-discrimination (Tauli-Corpuz, 2016, pp. 1-4).

By virtue of the cases described above, we can see that recognition policies can effectively contribute to the advancement of indigenous rights, but they can also lead to regressions: first, there is a risk that through the trivialization of diversity, an essentialist view may end up being consolidated and, consequently, that the manifestations of autonomy may be reduced to some areas of folklore and integration. The second risk is the identification of recognition as an end in itself.

The coexistence of several rights within the same territory is based on an asymmetrical relationship, since all rights are subordinated to the state legal system. Law is a field of dynamic disputes, which is also crossed by the tension between regulation and emancipation (which configured the paradigm of modernity): regulation would be the institutionality of the State that is oriented towards the stability of expectations, and emancipation would be the struggle of indigenous peoples in the search for the recognition of their rights (Santos, 2009, pp. 30-31). In addition to this, law is not neutral, therefore, the effects of recognition will depend on the prevailing applications of the

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the obligation to appear before an ordinary judge on a weekly basis, and they would also be prohibited from leaving the country. Inter-American Commission on Human Rights (2018). Public Hearings. Period of Sessions No. 170.

The development and reconstruction of indigenous law depends on the way in which it is configured in the different spaces and scales (local, national and global). The pressure exerted by the movements and the IPs through the effective use of their jurisdiction, and its use within the state system, puts pressure on the transformations that have been taking place in the region in recent decades.

In short, the normative recognitions made by the States only outline the way in which the permanent dispute between both rights develops, so that, even though the legal consecration of legal pluralism may constitute an advance in the struggle for the recognition of the rights of PP. II, it should not be lost sight of the unequal relationship between both systems, and the consequent risk that the normative advances end up becoming a mere "stateization" of one's own law.

Conclusions

The right of indigenous peoples to have their own system of justice, in accordance with the development that has been taking place in international human rights law, is a collective right that is derived from the right to self-determination. Therefore, it is possible to affirm that in Chile the right to special indigenous jurisdiction (or indigenous law) is legally recognized, and that it is part of the block of constitutionality.

Although this statement may be controversial, fundamentally because of the pronouncement of the Constitutional Court (TC) regarding the priority power of the Chilean courts of justice to hear criminal and civil cases,[53] as has been argued in this article, the TC's ruling is based on an interpretation of the norms of international law that is not consistent with the standards and methods of interpretation emanating from international human rights bodies, such as the Inter-American Court of Human Rights. On the other hand, and despite this position, the Supreme Court and some of the judicial decisions that have been presented in this text, understand that there is a right of their own. However, the obstacle continues to be the value that judges confer to it

53 Judgment Rol 309-2000, August 4, 2000, paragraphs 52 and 53.

The cases analyzed in this chapter show that there is an important gap, manifested in the diminished value given to indigenous law in the judicial sphere. The analysis shows "a weak consideration of the cultural particularities and legal systems of indigenous peoples" (Bertini & Yáñez, 2013, p. 160). In this sense, there are good reasons to argue that what is behind this situation is the supremacy of the notion of law identified with the State and the nation, where the values and principles discussed and upheld by the special jurisdiction are considered subordinate to those of the constitutional order.

In this regard, it is useful to review the experiences of other countries in the region, since the policies of recognition of indigenous law that have been developed in recent decades at the comparative level have not necessarily meant the effective exercise of special indigenous jurisdiction. In those countries where there has been greater legal recognition, a regression is taking place, evidenced by the persecution and criminalization of traditional authorities who apply their own law. However, this process is dynamic, and there will be retreats and advances, depending on preponderance and development. Although the current scene is one of retreat, this does not necessarily define what will be the future of legal pluralism in Chile and the rest of the Americas; it is a present debate, and depending on the correlation of forces, this scenario may change in the future.

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Indigenous autonomy in Ecuador: foundations, deviations and challenges

Pablo Ortiz-T

Introduction

Just over three decades have passed since the Ecuadorian indigenous movement made public its demand for recognition of the country as a plurinational state, one of the 16 demands presented in the great "Indigenous uprising" of June 1990, This was one of the 16 demands presented in the great "Indigenous uprising" of June 1990, along with others such as the legalization and free adjudication of lands and territories, the right to (internal) self-determination and autonomy, which consists of creating a regime of self-government that allows them to have legal competence over the administration of the internal affairs of their communities, within the framework of the national State; and respect for their own thinking, organizational forms and political practices.

This emergence on the political scene meant an open questioning of the failed Creole nation-state project established in the first half of the 19th century, whose highly exclusionary and ethnocentric character was anchored to a primary-exporting socioeconomic model, which materialized in a stratified and highly inequitable territorial pattern that condemned indigenous territories and other areas to be spaces of overexploitation and extraction, establishing an asymmetrical national territorial structure, with rich territories in the center and poor in the peripheries.

In this context, this text explores the main advances and limitations that the exercise of the right to indigenous autonomy has had, including, on the one hand, the responses given by the State and the premises that have guided its decisions; and on the other hand, the actions deployed by indigenous peoples in the territories. What elements explain the current situation of the collective right to autonomy of indigenous peoples and nationalities in Ecuador?

One hypothesis regarding this question is that the State's actions to process indigenous demands for the creation of an autonomous regime have been extremely limited by two conditions: one, the State's urges to prioritize its territorial control and the rents derived from extractive activities as the economic basis of its finances, and even more so in the national-popular phase (2008-2016); and two, the aggressive irruption of neoliberalism (2017-2020) that flatly suspended all institutional reforms derived from the 2008 Constitution and imposed a policy subordinated to the demands of financial capital, the extractive mining and oil industry and agro-export capital, also intensifying the pressure on indigenous territories and their resources.

But the hypothesis also includes an overview of the gradual process of disarticulation of the subaltern and popular bloc that made possible the constitutional reforms and the recognition of Ecuador as a "... constitutional state of rights and justice, intercultural and plurinational, organized as a republic and governed in a decentralized manner". In other words, a complex process of fragmentation of positions within the indigenous movement, which has prevented a coherent proposal on the right to autonomy, as well as a greater projection of allies and a favorable correlation of forces that would make possible the establishment of special autonomous indigenous regimes in the country.

This has forced certain fractions of indigenous peoples to try certain ways to continue, with many difficulties, with their territorial or community self-management initiatives. In some cases, in an autonomous manner, outside state recognition, and in others, combining this strategy with access to and management by local governments, which for some has made it possible to generate spaces for autonomous management. To illustrate this, the chapter refers to two experiences that demonstrate several of the points mentioned above. First, one developed by the Kayambi people in the community of Pesillo, in the Sierra Norte. Second, another, in the territory of the Kichwa of Pastaza and their organization "Pastaza Kikin Kichwa Runakuna-Pakkiru" (Original Kichwa Nationality of Pastaza) in the central Amazon.

The Community Government of Pukará Pesillo, Cayambe. Northern Highlands

Pesillo in Cayambe is a good example of how the old heritage of colonial and hacienda structures weigh on the rationality surrounding the use of the land.

and distribution of resources. The Kayambi people have a long history of residence and resistance in this place, dating back to the XIV century during the Inca expansion, passing through the entire colonial period until reaching the Republic. A constant of this people in their actions as a subaltern subject[1] has been the permanent reconstitution of their identity and their struggle for the recognition of rights from the otherness. To some extent, they have been able to respond to these different dynamics of domination by highly exclusive, opprobrious and despotic economic and political systems.

Already at the beginning of the 20th century, they were involved in the struggles related to the Liberal Revolution. In the 1930s, in the context of the economic crisis, the emergence of the socialist party and the handover to state entities of estates such as those of Pesillo -which were in the hands of the clergy- made possible the formation of the first agricultural unions, whose initial slogans were the rights to wages and education; two decades later, the demand for access to and redistribution of land would mark the struggle of these people and their organizations. As noted by historians such as Becker and Tutillo (2009) and Galo Ramón (1993), the Kayambi, despite the adverse working conditions and the fact that they worked on hacienda lands (legally alien to them), had finally regrouped to form an ethnic nucleus, to the point that in the 1950 census they were identified in five of the six parishes, which added to the influence of the socialist and communist parties, opened the possibility of rebuilding their organizational structures, both in rural areas and within the haciendas (Kaminsky Crespi, 1969; Ponce García, 2011).

To some extent, the repertoire of collective actions and mobilizations of the agricultural unions and cooperatives linked to the Communist Party of Ecuador (PCE), led first by Dolores Cacuango and then by Tránsito Amaguaña, were guided by the indigenous premises of the time, and included demands that sought not only to recover the land and the agrarian base of the communities, or improve working conditions within the haciendas, but also to expand communal organization and establish productive bases for a productive insertion of the communities.

1 I refer to the subaltern beyond the Gramscian sense, and refer to Gyan Prakash, who argues that subalternity is an abstraction used to identify the intra- ble that emerges within a dominant system, and that it means that which the dominant discourse cannot fully appropriate, an otherness that resists being contained. For more cf. in (Prakash, 2001).

The Kayambi people's adherence to the market, without leaving aside their own identity as an indigenous people (Becker, 2004). But aside from the debate on the ethnogenesis of the Kayambi and the role played by the PCE in that process, their adherence to the emerging indigenism and their attachment to the Creole nation-state project is clear (Clark, 1998; Prieto, 1980).[2]

The Law of Communes of 1937 would propose a protective conception of communal organization and incorporate the indigenous population of the Sierra into the State's administrative legal system. In other words, the idea was not to subjugate or disarticulate them, but to integrate or assimilate them into the nation-state project underway (Silva Charvet, 2004).

In the late 1950s and early 1960s, a new generation of landowners, such as Galo Plaza and Emilio Bonifaz, began to hand over land in advance on important haciendas in this region.
-The United States - educated in the United States since their youth - envisioned the need for their families' properties to be converted into modern capitalist productive units, including the elimination of servile forms of labor and the contracting of agricultural labor with salaried wages. That initiative would coincide with the urgencies emanating from the United States, through the "Alliance for Progress" Program and the "Andean Mission", to neutralize the most radical demands for land distribution by the peasant-indigenous movement (Velasco, 1983; Murmis, 1980; Guerrero, 1983).

The content of the Agrarian Reform and Colonization Law approved by the military dictatorship in 1964 and its subsequent implementation made it possible to hand over land to the exhuasipungueros. Before the agrarian reform process, at the beginning of 1960, the peasant and indigenous communities of the Sierra controlled only 17% of the land. Subsequently, this figure increased to 35%. Ecuador's agrarian reform never had a popular content, nor did it set out to solve the problem of land ownership.

2 Historian Hernán Ibarra (1999) explains that Ecuadorian indigenism refers to an intellectual political current supported by the middle classes and even humanitarian landowners. "The indigenists claimed the Indian as the sustenance of Ecuadorian nationality. They conceived the Indian with certain physical features, dress, language and a material culture identified in food and housing; it was assumed that the natural habitat was the highest areas of the Sierra. The indigenists inspired policies that privileged education as the main mechanism of integration, and introduced the problem of land redistribution" (p. 74).

land problem, but fundamentally to neutralize Sino-Indian champion demands and co-opt that sector towards the demands of modernization towards an agro-export capitalism (Martínez-Valle, 2016; Gondard & Mazurek, 2001; Guerrero, 1991; Velasco, 1983; Murmis, 1980; Prieto, 1978).

In this context, a social economic formation dominated by agro-industrial, dairy and flower capital, and also integrated by medium and small agricultural producers, is taking shape in this region. In the latter sector, there are the Kichwa families of the Kayambi whose economy is based on three subgroups: wage earners integrated into agro-industrial enterprises (dairy and floricultural livestock); floating population that migrates to large cities such as Quito and works in the construction sector or small commerce; and peasant farmers, who still prioritize a production for self-consumption and surpluses to orient them to meet the demands of agro-industry, and nearby urban markets (Bec- ker & Tutillo, 2009; Martínez-Godoy, 2016; Korovkin, 2002a).

Almost two decades of neoliberal policies in Ecuador (1983-2006) had generated negative impacts at the social level: increased poverty, high unemployment and underemployment rates, low levels of schooling, high infant mortality (Dubly & Granda, 1983; Becker & Tutillo, 2009; Ferraro, 2004). In the agrarian sphere, the general framework of neoliberal policies not only suspended the agrarian reform process but also blocked access to land, which would have an impact on the destabilization of the indigenous communities (Bebbington, 2004), to the point that they changed their demands regarding land: instead of expropriations, priority was given to titling requests, resulting in a sharp process of subdivision of communal lands, especially in the high paramo floor, which, according to Luciano Martínez:

> They implied three negative consequences: a) the properties that entered the land market were mainly small plots, which resulted in these properties being further reduced; b) many of these properties passed from the effective control of the communities to the private individual; and c) ecologically sensitive páramo lands, which are not suitable for agriculture, were divided and sold for use in agricultural production. (Martínez, 2003, pp. 91, 92).

Capital investments in this region during this period were the main factor in the deterritorialization of the Kichwa communities. Most of the land was concentrated in extensive cattle production linked to the dairy industry and agro-floriculture plantations for export (Haesbaert,

2013; 2014) In this sector, for example, production is highly technified, characterized by the unregulated use of agrochemicals (Harari, 2003); the production and marketing chain has created a large number of jobs, but with low incomes and occupational and health risks. These are factors that have triggered demographic changes in the region: on the one hand, immigration from other parts of the country, saturating the demand for housing and basic services that local governments have had difficulty satisfying. And, on the other hand, the recruitment of indigenous labor, especially female (Martínez Godoy, 2016; Korovkin, 2002a).

In Pesillo, several families have managed to maintain agricultural production relatively efficiently. After several years, temporary and seasonal migrants have returned frustrated from their experience, with precarious, insecure and poorly paid jobs. Based on this negative experience, they have shown interest in promoting family farming and community institutions within their communities (Ferraro, 2004). In this context, microcredit programs such as the one promoted by the Casa Campesina de Cayambe (CCC) in association with Ayuda en Acción arose in response to the demand of indigenous communities in the area to cover certain needs of the economic cycle of the family economy (Herrán, 2011, pp. 58, 59).

The partial resurgence of peasant family agriculture also generated a greater demand for water and disputes over the control of water resources with other users such as medium-sized producers, especially flower companies and the dairy industry (Poats et al., 2007). This fact, together with the legal reforms resulting from the constitutional recognition of water as an inalienable human right, a strategic national heritage for public use, to be administered exclusively by the State and community and associative organizations, influenced rural territories throughout the country and was the subject of disputes and disagreements between the government, agribusiness entrepreneurs and a large part of the indigenous movement in the second decade of the 21st century (Hoogesteger van Dijk, 2013).

The creation of the National Water Secretariat (SE-NAGUA) in 2008 as an entity attached to the Presidency of the Republic[3] and the approval of the Water Law triggered bitter discussions, disputes and actions.

3 Executive Decree Nº 1088 creating the National Water Secretariat (SENAGUA) May 15, 2008. Published in the Official Gazette Nº346 of May 27, 2008. Available at:

https://bit.ly/38bjLik

The protest by the organizations belonging to the Confederation of Indigenous Nationalities of Ecuador (CONAIE), which led the government to file the draft law, postponing the debate for more than five years. In 2014, the National Assembly resumed deliberations on the new law and approved it with the persistent rejection of indigenous organizations (Guerrero & Hinojosa, 2017).

The recognition and enforcement of the rights of nature and collective rights in the Constitution generated expectations ranging from changes in the approach to water management (in particular a greater emphasis on environmental protection) to the establishment of broad spaces for the participation of indigenous peoples and irrigation organizations. CONAIE demanded the creation of such an autonomous decision-making body, but in the end, the approved law, although it incorporated almost all of the other points of demand, did not consider such a possibility, and limited itself to creating the Water Regulatory Agency (ARCA), which would assume powers regarding the allocation of the resource, renewal of concessions and resolution of conflicts between water users, among others. All this was interpreted by CONAIE and its allies as the establishment of highly restricted spaces for greater participation of indigenous peoples and in favor of governmental theses. This would deepen the already deteriorated relations between the indigenous peoples and the Costa Rican government (Isch Lopez, 2012).

In this context, the Kayambi of Pesillo had actively participated in protest actions and in the debates around the Water Law, which also linked it to the endogenous processes of community organization, defense of fragile ecosystems such as the páramo, the reconstitution of the Kayambi ancestral territory, and the strengthening of local identity and historical memory. As explained by Graciela Alba, governor of Pesillo:

> ...within the current Constitution there are recognized rights for our communities, to preserve our knowledge. We are followers of the legacy of our grandparents, who left their lives to be where we are. We are not going to lose that vision and those principles, despite the dominance of capitalism, we will continue to resist in our own way and we are trying to revitalize that knowledge. (Great-granddaughter of the historic leader of the Kayambi people. Personal interview, Pesillo October 10, 2018).

In a way, community water management has made it possible to strengthen the territorial and autonomous community government proposal,

as can be seen in the process initiated around the construction of the "Life Plan" of the Pukará de Pesillo Community.

In this region, where the Kayambi people live, the dispute over water -It would seem to be reduced only to the economic or technical dimension of physical infrastructure, when in fact it also involves stories of convergence between local stakeholders who are opposed to each other on many other issues, but who have reached minimum agreements around water and irrigation to share efforts and responsibilities, whether to build or maintain infrastructure, define the rules for irrigation use or to operate in accordance with local reality and culture.

Within this framework of control of territorial space, Jorge Bastidas, spokesman for the Confederation of the Kayambi People, explains that they live a process of continuous recovery of their identity, which comes from a broad historical tradition, with a memory and a science that was developed by their ancestors. The hills, rivers, lagoons, valleys, the Kayambi people's footprint is present in everything, highlighting the existence of Andean polyculture agricultural systems, he explains.[4]

Simultaneously, since the mid-1990s, the community members of Pesillo, as part of the Confederation of the Kayambi People, supported CONAIE's decision to participate directly in electoral contests through the Pachakutik Movement, in order to influence through alternative proposals and forms of public management. As John Cameron points out: "Sino-Indian champion organizations became increasingly involved in municipal politics as a mechanism for exercising greater control over rural infrastructure and local development projects" (Cameron, 2003, p. 164). Guillermo Churichumbi, one of the main representatives of the Confederation was elected mayor of this canton from 2014 to the present.

In one of its first acts, the Council presided by Churichumbi approved the Ordinance declaring the municipality as a Plurinational and Intercultural Decentralized Autonomous Government (GADIP), which would set the tone of its public management around the construction of the plurinational from the local level and that, protected by the communal power, would make possible some degree of transformation in the municipality.

4 Life Plan socialization workshop, Salesian Polytechnic University September 09, 2018.

the management of the use of political power and in the implementation of plans and policies for the resolution of their problems (GADIP, 2015, p. 17).

By way of example, programs articulated between the municipal administration and the Confederation of the Kayambi People could be highlighted, which seek to respond to the demands of community organizations and their processes of ethnic revitalization and political protagonism: a) the strengthening of citizen participation mechanisms for the planning and execution of the government plan, together with accountability; b) the commitment to participatory budgets and the execution of "works by co-management", in which priorities are set by neighborhood or communal assemblies and costs are shared between the municipal government and the community through 'mingas' or community works; c) the promotion of alternative production systems where the ancestral practices and knowledge of the Kayambi people are collected, valued and made visible; and d) the enforcement of the rights of nature through the implementation of programs for the protection of the páramo and water sources (Gendron, 2019).

The latter two could be highlighted as experiences that illustrate the influence of community proposals in the decisions of the town council. On the one hand, the establishment of the Cayambe Community Water Protection Area, and on the other, the participatory construction of the Ordinance for the use of public spaces for the commercialization of healthy products in the so-called "Cayambe Agroecological Fairs".

The first refers to an area under the management of the Kayambi people, which benefits four communes and three development committees and corresponds to territories specifically set aside for the maintenance and protection of the páramo and the water sources that supply the population and guarantee irrigation. This is a site of environmental importance because it establishes an ecological corridor for species such as the spectacled bear, the páramo wolf, and the Andean condor, which inhabit this sector.[5]

The second, on the other hand, supports processes to strengthen organizations dedicated to the rescue and multiplication of seeds, soil conservation and agroecological production, where the role of women's groups stands out.

5 The country's first community water protection area is declared Available at: https://

bit.ly/3941S4r

The approval of the Ordinance allows these community organizations to recover spaces within the city, to show their proposal for food sovereignty. The approval of the Ordinance allows these community organizations to recover spaces within the city to show their food sovereignty proposal. According to Mayor Guillermo Churichumbi:

> The Ordinance was a lesson for councilors and for officials as it was born from the thinking of agroecological producers, who know the reality of planting, harvesting and marketing, which represents the work of each one of them. (Requelme et al., 2019, p. 102)

Despite these advances, not everyone in the organization is convinced of the importance of such proposals, making internal discrepancies and contradictions evident, as Graciela Alba points out:

> ...one of these is the dissociation and disarticulation between different organizations involved in the process. In the case of water management, for example, between the Irrigation Water Board, the Consumption Water Board and the Community Government. So far we have not yet been able to reach a moment of unity, to be able to motivate the community. (Personal interview, Pesillo October 10, 2018, unpublished).

For Humberto Cholango, one of the leaders of the Kayambi people[6] there are other elements of analysis that should be considered:

> ...on the issue of the plurinational State, inwardly, it has had an impact, by proposing that the foundation of the plurinational State be the communitarian, the different: then how do you build that? for example here in the Sierra, the thesis of communitarian governments inwardly (...) [regarding] the administration of justice, the control and management of natural resources, the páramos, the water, the direct relationship with the State organisms. This has had an impact inwardly, but it must be understood that it is no longer the same indigenous society of 25 years ago, when the indigenous uprising took place and when the thesis of the plurinational State was put forward. Indigenous society in the last 25 years has changed, economic relations are now very different; capital and

6 Cholango has been founder of the Corporation of Indigenous and Peasant Organizations of Cangahua (COINCCA), first Coordinator of the Confederation of the Kayambi People, former president of Ecuarunari and former president of CONAIE. In the framework of the agreement between CONAIE and the government of Lenín Moreno in 2017, Cholango was appointed National Secretary of Water SENAGUA, with the rank of Minister of State. He resigned from that position after the serious events of October 2019.

> the market have arrived and are in the communities. (Personal interview, Quito, Universidad Politécnica Salesiana, November 29, 2017).

The processes of internal social differentiation, market articulation and associated cultural changes are undoubtedly having an impact on community life and its future. According to Alba:

> ... here we have had some problems and difficult experiences, and this has generated mistrust and coordination limitations. To gain that trust, to promote those levels of coordination again, is not a process in such a short period of time. In the future we have to leave documents and tools for the work to come, so that the community has something to guide it and the Community Assembly has those tools. We want to restructure the statute and generate a regulation. (Personal interview, Pesillo October 10, 2018, unpublished).

The challenge for the community government of Pesillo seems to be to articulate under a single self-government entity the powers to manage water and the territory, which has made de facto partial progress in the organization and direction of the water boards, both for consumption and irrigation, although formal recognition of this figure of "community water management" by the State is still pending; Despite the current restrictions imposed by law, this would make it possible for competencies such as the issuing of authorization for the use of water to be in the name of the community and not of the Boards, as is currently the case.

Neither the political alliance between CONAIE and the Moreno government in 2017, formed in the heat of ruptures and resentments with the Correa government could facilitate the unblocking of the recognition of figures such as the "community water management", to which are added the internal conflicts within the indigenous organization itself around the proposal of community government, which according to Graciela Alba "....is also not fully accepted by all the community members, since the space of the water boards are niches of power that are internally disputed" (Entre- vista, Pesillo, October 10, 2018).

The alliance between CONAIE and the Moreno government lasted a little over two years and deteriorated throughout 2019 after a series of disagreements, and especially the implementation of neoliberal adjustment measures agreed with the International Monetary Fund (IMF), which provoked the largest social protest mobilizations since the 1990s and led to a definitive rupture of this pact in October (Herrera, 2020; Ramírez Gallegos, 2020).

The neoliberal policies implemented by Moreno between 2017 and 2020 irreversibly paralyzed the reforms initiated in 2008, weakening the role of the State through the dismantling of the institutional framework created in the Water Law of 2014. To a large extent, government policy has been limited to executing an agenda agreed with the IMF, highly favorable to foreign debt holders and fractions of the financial and agro-exporting bourgeoisie.[7]

Self-government of the Kichwa of Pastaza: the experience of Pastaza Kikin Kichwa Runakuna-Pakkiru (Original Kichwa Nationality of Pastaza).

Over the last three decades, the Kichwa nationality of Pastaza - whose current organization is Pastaza Kikin Kichwa Runakuna (Pakkiru) - has defended and managed its ancestral territory, the largest in the country with more than 1.5 million hectares, located in the Central Amazon. The Kichwa of Pastaza have played a preponderant role in the Ecuadorian indigenous movement, demanding since the early 1980s the recognition of collective rights, and in particular the right to autonomy and self-government.

Through the Organization of Indigenous Peoples of Pastaza (OPIP), whose origins date back to 1977, the Kichwa of Pastaza demanded not only the legalization and collective titling of their territories, but of all the nationalities of the Ecuadorian Amazon and Coast, a halt to colonization programs, and the total suspension of oil activities; OPIP also demanded a reform of the 1978 Constitution so that Ecuador would be declared a plurinational state and the approval of the Law of Indigenous Nationalities of Ecuador (Chirif et al., 1991; Whitten, 1987).

OPIP amplified and made these demands public and presented them on August 22, 1990 at the Carondelet Palace, seat of government in Quito, through the so-called "Territorial Agreement of the Kichwa, Shiwiar and Achuar Peoples of the province of Pastaza to be signed with the Ecuadorian State" (Guzmán Galle- gos, 2012; Ruiz, 1993).

7 NODAL, Lenín Moreno announces economic package as part of the agreement with the IMF, 02.10.2019. Available at: https://bit.ly/2wyLj0P. Cf. also at: El Universo, Eliminación de subsidio a gasolina y diésel, entre medidas económicas del Gobierno de Ecuador, 01.10.2019. Available at: https://bit.ly/2Trf9xc

Two years later in May 1992, it would ratify it through a march from Pastaza to Quito -about 400 km away- central of "*Allpa- manda, Causaimanda, Jatarishum*" (For the Land, for Life, let us rise up"), the same that raised the legalization and delivery of collective property titles of the ancestral territories, one for each of the nationalities of this pro- vince, and also the demand for the recognition of the right to autonomy and self-government (Ortiz-T., 2016; Ruiz, 1993).

On the first demand, the government responded with the delivery of 18 collective property titles, which partially recognized the ancestral possessions, although at the same time it did so by altering the ancestral boundaries and provoking an accumulation of internal boundary and demarcation conflicts (Guzmán Gallegos, 1997; Ortiz-T., 2016; Garcés, 2001).

Regarding the second demand, the government reacted negatively and gave way to an aggressive campaign led by the military and replicated by right-wing groups and the media, which accused the organization of trying to impose a "secession" project and create "a state within a state" (Ruiz, 1993; Ortiz-T., 1997).

This juncture would also be marked by the beginning of the largest oil exploitation project in this province: at the same time that the titles were handed over, the Arco/Agip oil consortium announced the existence of proven reserves and commercial interest in the field. It would not be until 1998 that the exploitation and transportation of heavy crude oil from this block would begin (Ortiz-T., 1997; McCreary, 1992; Guzmán Gallegos, 2012; Wasserstrom & Southgate, 2013).

It is estimated that, from then to the present, oil extraction has generated revenues of over 3 billion dollars for more than two decades, and given the contractual modalities, the main beneficiary has been the operating company itself (more than 80%). The remaining 20% is distributed in royalties between the central government and local Amazonian governments. In other words, of all the capital flow extracted, Pastaza did not manage to retain neither taxes nor major royalties for itself (Mendez et al., 1998; Korovkin, 2002b; Guzmán Gallegos, 2012; Diantini et al., 2020).

Both facts referred to, to some extent, would mark the scenario of recurrent conflicts between the State and the indigenous nationalities.

of Pastaza. The Kichwa's eagerness to ensure the control and legalization of their territories, and with this, the existence of an inherited ancestral space in which to exercise their autonomy and self-government, has often clashed with the interests of capital linked to the extractive industry and the State to co-opt these populations and territories, to ensure a space for the exploitation and extraction of a *commodity* such as oil (Bebbington, 2013; Veltmeyer, 2013; Sawyer, 2016).

The partial legalization of the indigenous territories of Pastaza, obtained in 1992, to a large extent made possible the promotion of the autonomy process, particularly of the Kichwa, although internal differences would soon lead to disputes and divisions.

Progress began with the development of the Amazanga Plan (1993-1996), whose central conceptual premises are summarized by Alfredo Viteri Gualinga, founder and first President of OPIP and coordinator of the plan:

> ...our territory is not a thing, nor a set of usable, exploitable things, nor a set of resources. Our territory, with its forests, its lagoons, its wetlands, with its sacred places where the Supay people live, with its black, red and sandy soils and its clays, is a living entity that gives us life, provides us with water and air; takes care of us, gives us food and health; gives us knowledge and energy; gives us generations and a history, a present and a future; gives us identity and culture; gives us autonomy and freedom. So, together with territory is life, and together with life is dignity; together with territory is our self-determination as peoples (Viteri Gualinga, 2004, p. 31).

It would be the first time that the concepts of Sacha Runa Yachay (knowledge of the people of the jungle), Sumak Kawsay (life in plenitude) and Sumak Allpa (land without evil) guided an instrument of management and self-government, which basically made possible the creation of economic initiatives through the organization's own enterprises, such as the Aviation Department of OPIP; Atakapi Tours organized with the purpose of promoting community ecotourism; Palati Savings and Credit Cooperative, aimed at promoting the production of family economies; the Fatima Zoocrianza Center and the Amazanga Institute, the latter focused on research, conservation and education tasks (Tapia, 2019; Merino Gayas, 2019; Escobar, 2008).

Subsequently, OPIP's Self-Development Plan (1996-1999) was implemented, which included components of education, community infrastructure, communication

and productive projects of different types (Stacey, 2004). Later, the OPIP's Life Plan (1999-2012) was elaborated and approved, which included as central axes the consolidation of the autonomy and territorial self-management process; the updating of maps at the grassroots association level; the strengthening of local capacities through a training program for technicians and local leaders; the promotion of sustainable productive projects at the family economy level; and the establishment of strategic alliances around the autonomous process of territorial self-management; the promotion of sustainable productive projects at the family economy level; and the establishment of strategic alliances around the autonomy process of the Kichwa of Pastaza (Silva Charvet, 2002; Guzmán Gallegos, 2012; Chauzá Samboní, 2016).

Alexandra Aguinda, from the Nina Amarun community on the Curaray River, belonging to the Association of the same name, explains the meaning of the process:

> ...our Sumak Kawsay (Life in Harmony) has been to maintain the knowledge and knowledge of our ancestors, about all biodiversity, in the same way that we have built a management plan for Sumak Kawsay. Likewise, our children must continue to maintain it into the future; when they are old, they will transmit it to their children, and they to their children, and so on forever. We still live to take care of our territories, so that the resources do not become extinct; this vision must be maintained from generation to generation. Just as we have grown up knowing all the diversity, our children must also know in their lives. With these visions we are living here, that it does not become extinct, that it is not altered, and that other generations continue to maintain and take care of everything that exists in our territory. We inherited it from our grandparents and we pass it on to our children. (Proindígena-GIZ, 2016, p. 47).

All of OPIP's plans and programs between 1992 and 2018 have had to respond to the differentiated demands and priorities of its grassroots organizations and ayllus.[8] There are communities such as San Jacinto del Pindo, Río Anzu, Copa-C taza and Santa Clara that live in the so-called colonization zone, close to the main roads and urban centers such as Puyo and Arajuno, strongly impacted by the market and the more individualistic western culture. And there are other associations on the other hand, such as Curaray, Río Tigre and those of the Bobonaza River that live in relatively isolated and distant territories, where there is still no direct connection by land and transportation is primarily by river or air (Chauzá-Samboní, 2016; Silva Charvet, 2002).

8 After the dissolution of OPIP 2008 and the formation of the Coordinadora de la Nacionalidad

Kichwa de Pastaza, two important plans were generated: "Plan de Vida de la Nacionalidad Kichwa de Pastaza" (2013) and the "Kawsay Sacha" Program called "Sumak Allpamanta Kawsaymanta Jatarishum" (2018).

In this second group, cohesion around the autonomy project is greater and stronger, maintaining an integral perspective as a Kichwa nationality; while in the first group, the autonomy perspective is weak, to the point that positions openly contrary to the autonomy thesis and in favor of agreements with the State and extractive capital have emerged.

Within the framework of the oil companies' offensive between 1988 and 2003, two significant events took place: in 1994, the agreement between Arco/Agip and OPIP regarding oil operations in Block 10, and in 2003, the outbreak of the conflict between the Kichwa Indigenous People of Sarayaku against the State and Compañía General de Combustibles CGC of Argentina, concessionaire of the so-called Block 23 in the Bobonaza River (Melo, 2015; Sawyer, 2016).

Regarding the former, it was a forced solution to the conflict that began in 1989, which put at risk the demand for the titling of ancestral territories, but which also sought to mitigate the state's accusation against OPIP of "attacking national interests" by radically opposing oil projects in their territory, and at the same time establish a precedent for a new type of relationship between the State, indigenous peoples and extractive companies, based on respect for collective rights, mitigation of environmental impacts, introduction of new oil exploitation practices that exclude the opening of roads and the direct participation of indigenous peoples in the economic benefits of the exploitation of the oil block. OPIP defined this last point as a potential source of financing for their "life plans" and the possibility of accessing resources to sustain the autonomy process.

The new operator of Block 10, Agip Oil Ecuador (AOE), left aside the commitment assumed by its predecessor and prioritized a vertical, focused and clientelistic relationship with the 17 communities in the area of influence of the Villano field. In exchange for small donations for targeted road, productive, educational and health infrastructure projects, it conditioned their delivery to the formation of a new organization called AIEPRA (Asociación de Indígenas Independientes de Pastaza) and the total exclusion of OPIP and its associations (Ortiz-T., 1997; Diantini, 2020).

Regarding the latter, the outbreak of the conflict between the Ki- chwa Indigenous People of Sarayaku against the State and the oil company CGC, between 2003 and 2012, put

The recurrent practice of the State of not guaranteeing or respecting existing collective rights, such as free, prior and informed consultation: the recurrent practice of the State of not guaranteeing or respecting existing collective rights such as free, prior and informed consultation; the negligence to prevent corrupt practices, through intimidation, bribery and division of communities promoted by companies such as CGC; the intimidation and violent coercion by the State's repressive forces and paramilitary groups hired by the oil company; the intimidation and violent coercion by the repressive forces of the State and paramilitary groups hired by the oil company; but it also evidenced the predominance in grassroots organizations such as Sarayaku, of an autarchic, short-term vision, isolated from the autonomous demand of the Kichwa nationality of Pastaza as a whole. And it did so to such an extent that it abandoned the strategy of
-up to then in force- of defending in an integral and unitary manner the territorial and collective rights of all the nationalities of Pastaza, to give way to a fragmented and fragmented perspective and narrative of the problem (Ortiz-T., 2016).

Consistent with this position, following the judgment issued nine years later by the Inter-American Court of Human Rights (IACHR), which condemned the State for violating the right to prior, free and informed consultation and sentenced it to compensate the affected communities (Melo, 2015), Sarayaku has developed a proposal for autarchy called "Kawsay Sacha" (Selva Viviente) at the margin of the rest of the autonomous political-territorial dynamics of the Kichwa nationality as a whole, and in which their radical opposition to the presence of extractive activities within their territory, which represents less than 10% of the Kichwa territoriality of Pastaza, stands out. The Sarayaku thesis has been supported by some environmentalist networks and related academic circles inside and outside Ecuador (Santi & Ghirotto Santos, 2019; Teixeira, 2020).[9]

It would be the approval of the Constitution in 2008 that would provoke the greatest organizational changes among the Kichwa, who decided to dissolve all existing organizations and give way to a larger body of representation, which would provisionally be called "Coordinator of the Kichwa Nationality of Pastaza" (Coordinadora de la Nacionalidad Kichwa de Pastaza - CNKP), In 2011, they signed an agreement with the government that included the Kuraray-Liquino Organization and the Association of Indigenous Communities of Arajuno (ACIA).

However, a series of difficulties neutralized and helped the initiative to follow a very winding path, which includes the following problems

9 On the proposal Kawsak Sacha (Living Forest) of Sarayaku. Cf. in: https://bit.ly/35cJwx4

The legal and institutional structural incompatibilities between the ancestral territoriality of the peoples and nationalities and the logic of administration and national territorial political organization of the State, marked by the existence of parochial, cantonal and provincial jurisdictions, which historically have been created from an ethnocentric matrix, tailored to the interests of colonists and resource extraction, at the margin of ancestral territorial uses and management, imposing limits that have fragmented and divided ancestral territorial units of continuous character (Ortiz-T., 2015).

In addition to these factors, there were other circumstantial factors that neutralized the interest and political will of the central government, headed by Rafael Correa, to prosecute and concretize the establishment of the ECI in these cases. The straw that broke the camel's back was a controversial decision of the Sarayaku leadership to give refuge to three fugitives from justice who were sentenced to jail for slander against the President of the Republic. "The government considered that it was not correct for an indigenous people to shelter fugitives from justice and to condition the State as if it were another State. Thus arose the discussion of how far the self-determination of peoples goes," says Franco Viteri, former president of the Confederation of Indigenous Nationalities of Ecuador (CONFENIAE) (Chirif, 2016, p. 100).

Specifically, after the incident, the process of forming the ECIs had to be suspended due to lack of funding. Until then, the Institute for the Ecodevelopment of the Amazon (ECORAE), as a state agency, had supported agreements with the Kichwa nationalities of Pastaza, Achuar, Andwa and Shiwiar to update geographic information (physical and demographic changes), participatory construction of life plans through workshops and assemblies, socialization of the legal-constitutional framework and development of statutes and community training on the new special autonomous regime (Chirif, 2016; Ortiz-T., 2015).

The initiative of the Kichwa of Pastaza was isolated and did not have the political support of national indigenous organizations such as CONAIE or CONFENIAE, which had declared their opposition to the government.

> For some organizations of the Kichwa Peoples of Pastaza, the interest in establishing CTIs is due to the dream of going beyond the titling of ethnic territories, which has already been achieved almost in its entirety, and to move forward in constituting administrative territorial jurisdictions that have a State budget to implement their Life Plans. Initially, in 2011, Ecorae socialized the national regulations

> and delivered budget to several Amazonian nationalities for a total amount of USD 3,000,000, to generate governance proposals, statutes and Life Plans. Currently, this competence was eliminated from this institution and its implementation was diluted over time (Vallejo et al., 2016, p. 52).

The issue of the demand for the creation of the CTIs would be taken up again two years later in the government of Lenín Moreno, and through the National Assembly, which favored the demands of the municipal governments and prefectures to impose the so-called "Organic Law for the Integral Planning of the Amazon Special Territorial Circumscription (CTEA)", which foresees a "Fund for Sustainable Amazonian Development", whose resources will be executed by local governments, prioritizing basic services, health, education, and which only replicates the old practices of short-term, clientelistic, ethnocentric treatment, focused exclusively on tangible demands of some indigenous and peasant communities in the region.

> Our relationship with the public authorities is nonexistent, because any initiative of our own is not supported, from the public authorities only support is encouraged at a conditioned clientelist level without respecting the cosmovision of our peoples [emphasizes César Cerda, also former president of OPIP]. (Personal interview, Puyo-Pastaza, August 23, 2019, unpublished).

Problem knots derived from the Ecuadorian experience

The experiences described in this chapter reveal the difficulties and limitations of the process of building a plurinational state. Although the 1990s were marked by a triple crisis associated with the social impact of neoliberal policies, the crisis of the nation-state project and the collapse of the political system, at the same time the emergence of the indigenous movement on the public scene opened up new possibilities for the recomposition of the popular camp, It also played a leading role in the development of proposals ranging from the construction of alternatives to neoliberalism to the critique of the coloniality of power (understood as a pattern of domination that combines the ethnic hierarchization of Europeans vis-à-vis the colonized peoples with the exploitation of capital over labor) and the ethnocentric and exclusionary Creole project of the nation-state established in the 19th century (Guerrero, 1993).

The cases of the Kayambi People in the Sierra Norte and of the Ki- chwa de Pastaza Nationality in the Central Amazon, in some way reveal several elements of the Ki- chwa's culture.

The State and its scope for processing demands that include its own structural and institutional reforms, as well as the indigenous organizations themselves in their capacity to deepen and concretize their demands and manage their strategies for political advocacy and negotiation with the State.

With reference to the State, it must be considered that, throughout the twentieth century, it did not manage to consolidate the old Creole project of "integrating a single State into a single nation, based on one language, one culture and one religion", which implied the annihilation of cultural differences, either by means of whitening or "de-Indianization" or by integrating the indigenous into the dominant mestizo project, as advocated by the indigenists. And in its cracking, such a project generated phenomena such as the sharpening of regionalism with the resurgence of oligarchic secessionist theses, particularly in Guayaquil, up to the irruption of indigenous peoples and their questioning of the nation-state project in force (Zamosc, 2005; Ortiz-T., 2014, Silva Charvet, 2004, Taylor, 1994).

The long history of indigenous peoples' resistance, mentioned at length in the two cases mentioned above, in some way shows the evolution of indigenous thought in its relationship with the State and the dominant society in the 20th and 21st centuries, ranging from indigenism and multiculturalism - through demands for access to land, legalization of territories, improvement of labor conditions, access to education in their own language or regulation of colonization programs - to the plurinational thesis, based on the recognition of peoples as collective subjects of rights, access to education in their own language or regulation of colonization programs - to plurinational theses, based on the recognition of peoples as collective subjects of rights, coupled with the notions of autonomy, self-government and self-determination, which fundamentally refer to a new type of state institutionality and territorial organization, as is the case in several Latin American countries (González, 2010; Dussel & Fornazzari, 2002; Silva Charvet, 2004).

In this framework, explaining the situation of the collective right to autonomy of indigenous peoples and nationalities in Ecuador requires considering, on the one hand, the State in its capacity to process demands regarding collective rights or guarantee their enforcement; and on the other hand, the dynamics of other actors who strive to influence the direction and direction of institutional reforms and public policies.

Indigenous demands in the last seventy years have never been fully

addressed and processed by the State. The following can be cited by way of example

The following are three examples of state response to land tenure, water distribution, and mining and oil concessions granted by the extractive industry within ancestral territories.

In the first case, between the early 1970s and the mid-1980s, land struggles and agrarian reform, although they annihilated the precarious forms of labor and the structure of the large estates of the hacienda system, especially in the Sierra, the data show that Ecuador is a country with more than 94% of the agricultural land in private ownership, while only 4.9% corresponds to collective and/or community ownership. Land tenure has not changed substantially and the Gini coefficient in the rural sector exceeds 0.9, a highly inequitable distribution (Chirif & García Hierro, 2007; Gondard & Mazurek, 2001; Korovkin, 2002; Martínez Godoy, 2016; Martínez Valle, 2016).

In the second case, in relation to water, as pointed out by the National Water Resources Forum:

> The concentration of water in a few hands is similar or even deeper than that of land. The peasant and indigenous population has community irrigation systems, they represent 86% of the users, however, they only have 22% of the irrigated area and most seriously, they have access to 13% of the flow, while the private sector, which represents 1% of the Agricultural Production Units (UPAs) concentrates 67% of the flow. (Hoogesteger van Dijk, 2013; Isch Lopez, 2012).

And regarding the third case, the rejection of the presence of extractive oil and mining industries, especially in indigenous territories of the Amazon, the figures show that in the last fifty years (1970-2020), the State has not ceased to exploit oil and does so directly, through the state company Petroecuador in a total of 12 blocks or oil fields representing 20% of the Ecuadorian Amazon; or in association with contracted private companies, which operate 14 blocks in an area of 23.3% of the cadastral map. And in the last thirty years, the State has tried - unsuccessfully and in the framework of strong confrontations with the indigenous organizations of the Central South - to concession 21 new blocks, which if materialized would represent more than 4 million new hectares involved (Ministry of Energy and Non-Renewable Resources, 2019).[10]

10 Agencia de Regulación y Control Hidrocarburífero "Daily production of oil and natural gas net of field at the national level" (2020). Cf. at https://bit.ly/2JKHf4w

In the case of mining, before 2008 concessions covered more than 5 million ha (20% of the national territory), including protected areas and indigenous territories. After the Constituent Assembly and the legal reforms surrounding this activity, new concessions as of 2009 cover an area of more than 1 million ha (4.5% of the national territory), particularly concentrated in the southern and southeastern region of the country, in peasant agricultural lands and ancestral territories such as those of the Shuar nationality (Sacher & Acosta, 2012; Ministry of Energy and Non-Renewable Resources, 2019).

What these data show is the persistence of a dependent primary exporting capitalist model established since the 19th century simultaneously with the Creole nation-state project. To some extent, this is a pattern of territorial organization and management accompanied by a system of population control and administration that has not changed substantially, and which is highly functional to the requirements imposed by global capitalism and the world market for *commodities* and other primary products (Burchardt & Dietz, 2014; Sachs & Warner, 1995; Bebbington, 2013).

The logic of accumulation and reproduction of capital originating in industrialized countries and multinational corporations directs their investments in finance and the extraction of raw materials at low cost. The small but powerful elites of the Ecuadorian bourgeoisie that endorse or participate in such investments will hardly allow altering the highly favorable conditions for the investment, reproduction and accumulation of these capitals (Conaghan & Malloy, 1995; Bunker, 2006; North et al., 2006; Sachs & Warner, 1995; Mehlum et al., 2006).

In the last forty years the extractive frontier of oil, mining and agribusiness for export has only expanded and increased, along with acute processes of deterioration and deprivation of vital resources for the indigenous population, ecosystems and their sustainability (Sawyer, 2016; Valdivia, 2008; Veltmeyer, 2013).

In this context, the mestizo, capitalist and dependent uninational state is limited and weak in the face of the onslaught and pressures of agro-exporters or the extractive oil and mining industry. State weaknesses worsened during two neoliberal periods (1984-2006) and (2017-2020) and were only interrupted by the emergence of a national popular coalition that reformed the Constitution and governed the country from 2007 to 2016.

It is precisely this period that is characterized by the urgency to recover the State, after two decades of neoliberalism, and that led the government of Correa and his allies to govern prioritizing nationalist policies and strengthening the State and its regulatory and redistributive role, often to the detriment of the high expectations and specific urgencies of the indigenous peoples, as shown by the disagreements around the Water Law or the suspension of the process of conformation of the CTI in Pastaza (Conaghan, 2015); Andrade, 2012).

The paradox, which is probably at the root of the deep disagreements between the progressive or "national-popular" coalition that governed the country between 2008 and 2016 and a good part of the indigenous movement led by CONAIE, is the different conceptions of change regarding the scope and content of the reform of the State. If plurinationality as a concept demands another type of state institutionality, a new territorial organization and an overcoming of representative or delegative democracy to a more participatory, deliberative and intercultural one, the "Citizen Revolution" barely limited itself to prioritizing redistributive policies in its development plans, through greater tax control and investments in social programs to reduce poverty, mainly through the provision of basic services and road, education and health infrastructure (Andrade, 2012; Ramírez Gallegos, 2020).

This left out substantial aspects such as the fight against discrimination, racism or cultural violence, or the promotion of deeper and more comprehensive reforms to the education and health systems, particularly with more intercultural and inclusive approaches (Ortiz, 2015; Ramírez Gallegos, 2016).

These difficulties in the government-indigenous peoples relationship during the period of the "Citizen Revolution" are few if compared to the restrictions posed during the neoliberal periods (before 2007 and after 2016), in which certain state policies are dismantled or restricted to the maximum (oil contracts, tax policy, environmental regulation, fiscal programs for education and health, co-management and administration of water, etc.). On the other hand, it would seem that targeted responses and prebendalism enjoy greater acceptance and sympathy in some indigenous leadership circles (social emergency funds, Council of Indigenous Nationalities, Directorate of Intercultural Bilingual Education (DINEIB), programs financed by multilateral agencies, among others) (Herrera, 2020; Ramírez Gallegos, 2020).

The sustained absence of a popular bloc with the capacity to sustain and advance in the rest of the processes of political-institutional reform and to build hegemony and new consensus around the project of a new type of plurinational State, would thus end up profoundly undermining the State's capacity to respond effectively to indigenous demands (Chilcote, 1990).

Instead of negotiating and strengthening the capacity to influence development plans and other public policy instruments (such as the National Agenda for Equality of Indigenous Peoples and Nationalities), several indigenous sectors linked to CONAIE preferred to exclude themselves from these debates and processes and to deepen their differences and establish their own agenda, even outside the historical proposals that had guided the indigenous mobilizations years before. From the cases analyzed, it is possible to visualize the experience of the Sarayaku organization in Pastaza, which beyond the important content and scope of the historic judgment issued by the IACHR in 2012 against the Ecuadorian State (Melo, 2015), shows the misguidance of the leadership of this organization that has chosen to privilege its particular interests to the detriment of the collective demand of the Kichwa nationality of Pastaza as a whole. In the case of the Kayambi people, living accelerated processes of socio-cultural transformation, occupying the same spaces as the mestizos, they seem to be more open to political negotiation with the State, either to occupy public institutions and manage them or to access municipalities such as Cayambe, and thus generate processes of autonomy without having to opt for the path of a special CTI-type regime.

Beyond the difficulties, misunderstandings and misunderstandings, it is important to note that the progress achieved in 2008 through the Constitution is a fact. The country's most important legal instrument takes up historical demands made by indigenous peoples: it recognizes the plurinational and intercultural nature of the State; it establishes three fields of rights (individual, collective and natural) as being in force, and this will continue to pose permanent challenges such as those described in the experiences.

The question remains as to the scope of the change in the model of society that the Constitution demands in order to fully guarantee the rights it recognizes.

A key issue of the new Latin American social constitutionalism lies in promoting the change of the development model, the political model of the State and the

transformation of power relations. This political-constitutional proposal has been driven by social movements in general and the indigenous movement has imbued it with its own distinctive sign (sociocultural approach), forged in its large mobilizations and emancipatory struggles (Narváez, 2017, p.127).

In this regard, Alfredo Viteri Gualinga, points out:

> ...is that we, the indigenous peoples, have to start building what we have conquered. So, this is the exercise of rights, it is the time for the exercise of rights and this implies the construction of a Plurinational State [...] We cannot leave the rights recognized in the Constitution in statements. We have to apply them, otherwise we cannot lay the foundations for the construction of a Plurinational State (quoted in Lalander & Lembke, 2018, p. 203).

Something that implies some verbs such as exercise, practice, demand, indicate and only one: practice. Plurinationalizing the State implies interculturalizing society. As Boaventura de Sousa Santos (2006) points out, exercising rights and building plurinationality implies experimenting, creating institutionality, generating another democracy more linked to the deliberative and participative than to the delegative and representative, another type of institutionality where different modes of institutional belonging can be present (shared and collegiate institutions) at the level of electoral control, the ombudsman's office, the sub-national governments and even the National Assembly itself, which are called to be plurinational and intercultural. This also implies not failing to look at the country as a whole, as a plurinational, sovereign, unitary State, which implies not overlooking the demands of the whole and of all above particularisms.

Conclusions

Existing experiences within the indigenous peoples and nationalities of Ecuador regarding the exercise of autonomy and self-government not only show a clash of visions regarding development, but also the difficulties involved in these processes of transformation of the State, both of which are subject to the pressures of capital.

If the State historically comes from a post-colonial and ethnocentric matrix and has sought to homogenize the population as a whole, in doing so it is faced with a heterogeneous, diverse, pluricultural and highly asymmetrical reality. The imagined community of nation, of the Creole elites, undoubtedly refers to the desire to

replicating in the Andean-Amazonian periphery what has been generated in the European center, established as a reference of what should be. This model has excluded indigenous peoples since the creation of the Republic, either by invisibilization or non-recognition of the existing diversity.

The replication of the coloniality of power, as a system of domination and social classification that continued strongly until the end of the 20th century, defined indigenous peoples as inferior and, accordingly, designed and built institutions based on this ethnocentric, monocultural and postcolonial vision. The challenge posed by the current Constitution in recognizing the State as plurinational and intercultural goes beyond a simple role of guarantor of certain collective rights. It implies developing a capacity to regulate and prevent such rights from being violated. And for this, the exercise of interculturality and plurinationality must transcend the institutional sphere and embrace the entire political field, including the organizations themselves, as shown by the experience of the Kichwa of Pastaza, who dissolved their organizations, questioning the guild model that had brought them together for almost forty years, and gave way to the constitution of self-governing entities. In doing so, they opened debates on the authoritarian, vertical and machista character with which they were regularly created. To be collective subjects of rights and to exercise autonomy demands another type of political and organizational subjectivity.

The two cases presented show how state institutions, beyond the legal scaffolding achieved, are designed and organized to sustain the basic relationship existing between capital and labor, between capital and a nature turned into an object, a merchandise, a *commodity*, regardless of the fact that the Constitution has recognized its rights. A State that is fragile, generous and docile to the demands of the agro-exporting bourgeoisie and the extractive industry, and narrow and winding with the multiple demands of historically excluded peoples.

In the economic sphere, the dependent, extractive and predatory capitalist model, such as the one that prevails in the Amazon through large-scale oil and mining activities, as well as export floriculture, through its recurrent promise of achieving progress, generating employment, overcoming poverty and integrating these peripheral or border regions into the nation, has been a perennial source of frustration, conflict, violation of labor rights and aggression against nature, whose ecosystems have been the source of frustration, conflict, violation of labor rights and aggression against nature, The recurrent promise to achieve progress, generate employment, overcome poverty and integrate these

peripheral or border regions into the nation, has been a permanent source of frustration, conflict, violation of labor rights and aggression against nature, whose fragile ecosystems have led to shortages or depletion of basic goods for the sustainability of the lives of many populations.

It is evident that in cases such as those of the Kayambi people and the Kichwa nationality of Pastaza, the historical indigenous organizations have been developing their own proposals for territorial self-management, self-government and experiences such as those described above that question the dominant development model, supporting the thesis of the re-foundation of the State and the need for a special autonomous regime that allows them to address their affairs according to their knowledge, their norms, their practices, their identities and their specific realities. And that is what autonomy is made of: of praxis, of a process under construction. What underlies the protest and resistance of the indigenous nationalities is the desire to find guarantees for the integrity and integrality of their territories, understanding by this the issues of pending legalization and integral security of the ancestral territories, to the recognition of self-governments, with full competencies and resources, to administer their living spaces.

That is the letter and meaning underlying the current Constitution of Ecuador. In other words, it is a matter of making plurinationality alive and not a slogan lacking empirical reference. Undoubtedly, it is a matter of moving towards new institutional figures, based on the recognition of what already exists. The experience of the Kayambi people, the initiatives that continue to push the current generations of Kichwa in Pastaza, call attention to what it means to recognize other epistemologies, other practices and local models of nature, and other institutions that rather than threats, are called to enrich the proposals for the transformation of Ecuador.

Undoubtedly, the experiences of planning from below, from a holistic perspective that questions anthropocentrism, as shown in the so-called "life plans", are initiatives to continue exercising autonomy or the right to deal with their affairs according to their rules, their authorities, their institutions as defined in Convention 169 and included in other instruments such as the United Nations Declaration for Indigenous Peoples.

Finally, it is clear that the autonomy of indigenous peoples is a fundamental right that can and should be exercised independently of the political and administrative organization of the State, as these experiences demonstrate. In short, it is not a matter of inventing new bureaucratic or administrative entities, but of recognizing and strengthening the processes that actually exist, which are those that make possible and condition the exercise of autonomies and the validity of the right to self-determination in the framework of unitary and plurinational States.

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PART III

Autonomies as emancipation: the search for one's own paths

The debate on gender orders and technologies within the framework of the Autonomous Project of Totora Marka (Bolivia)

Ana Cecilia Arteaga Böhrt[1]

Introduction

On August 6, 2006, the Constituent Assembly was installed in Bolivia as a result of the long struggle of the movements of both indigenous organizations and organized civil society, who articulately questioned the nation-state model and the privatization policies that had been in place since 1985. The result of this national meeting of representatives from all departments and sectors was the constitutional text approved on January 25, 2009, which establishes the construction of a Plurinational State whose basic principles are indigenous autonomies, decolonization, depatriarchalization and *suma qamaña* (good living). This has meant radical changes in the ways of thinking about the State and Bolivian society. It is within the framework of these important transformations that I document the challenges of implementing the great commitment to self-determination projects from the point of view of indigenous women, analyzing their efforts to have their voice recognized in collective decision-making bodies and to translate their gender meanings and demands.

I investigated the role that indigenous women played in the construction of Bolivian autonomies on a subnational or "local" scale, starting with the case study of Totora Marka (department of Oruro),[2] which was one of the eleven

1 Professor-Researcher at the Institute of Social Research of the Autonomous University of Baja California, Mexico.

2 It has a population of 5531 inhabitants who self-identify as Aymara (Bolivian Population and Housing Census, 2012) and is located in the northern part of the department of.

Municipalities - out of a total of 339 - that voted "Yes" for their self-determination (with more than 74.5%) in the municipal referendum of December 6, 2009 held to adopt the status of indigenous autonomy. I had the opportunity to accompany this native people during the years 2010 to 2015 through an ethnographic, collaborative[3] and longitudinal study that allowed me to document this experience. This particular case stood out from other autonomy conversion projects because it led this process for several years, becoming a unique event to analyze the institutionality of the Plurinational State.[4]

Throughout this manuscript I reveal how, in the dispute for autonomy as a constitutional right, the women of Totora Marka opened the space to discuss structural principles of their social organization and cosmo- vision, and thus dispute gender orders and ideologies from the cultural meanings they assume.[5] By questioning this system and the disciplinary dispositions that sustain it, the Totora Marka women enunciated a series of

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Oruro, a region occupied by the *ayllus* of the Oruro altiplano. The *ayllus* are the basic institution and organizational unit of the Andean community (Coaguila, 2013).

3 One of the central products made within the framework of the collaborative methodology was the production of a video-documentary, entitled *Our thaki (road) to self-government*, which can be viewed on YouTube at the following link: https://bit.ly/3kuajdX.

4 The findings presented below are the result of two research stages: I) in the framework of the Project "Women and Law in Latin America: Justice, Security and Legal Pluralism" (coordinated by the Christian Michelsen Institute of Bergen-CMI, and the Center for Research and Higher Studies in Social Anthropology-CIESAS), from early 2010 to mid-2011 I accompanied the process of conversion to native autonomy of Totora Marka. The findings of this first stage were reflected in the article "Caminemos juntos" (Let's walk together): *Chacha-warmi* complementarity and indigenous autonomies in Bolivia" (Arteaga, 2017), in which I portrayed the strategies that Totora women developed to open participatory spaces for themselves during the elaboration of the autonomous statute (written norm required by the State to recognize self-governments); II) from May 2014 to August 2015, I conducted the second stage of fieldwork for the PhD thesis in Anthropology at CIESAS, giving continuity to the previous study. In this paper I develop the two stages of research.

5 Gender ideologies or technologies are the positions to which women are assigned by the sex/gender system (Kelly, 1979, p. 57), which constitute disciplinary devices crystallized in norms and customs that guide social practices and can limit the possibilities of new discourses on rights that aim to question them (Sierra, 2007, 2010). On this basis, a system of social organization and historical construction called gender order is erected in which all dimensions of human life converge and which systematically produces relations of power, hierarchy and subordination between men and women (Buquet, 2016; Jill Matthews, cited in Connell, 1987, pp. 98-99).

transformation proposals to generate changes in the norms and customs that guided the social practices of the Marka.

Based on women's proposals for local transformation, I also conduct broader analyses focused on the advances and challenges faced by indigenous peoples in their institutionalization within the framework of the Bolivian pluri-national state, which was torn between important normative and institutional changes that favored decentralization and indigenous autonomies, and a centralist model of government that hindered them. In this sense, from the experience of Totoreño women, I show the important trans- formative impulses resulting from the constitutional reform and, at the same time, the technologies of governmental power.

Regulatory and institutional changes: women's struggles and indigenous autonomies

In the December 2005 presidential elections, Evo Morales-Ay- ma of the Movement Towards Socialism-Instrument for the Sovereignty of the Peoples (MAS-IPSP), won first place with 54% of the votes, becoming the first indigenous president in Bolivia and in South America. Within months of his election and in response to social demands, in 2006 the Constituent Assembly was installed, presided over by Silvia Lazarte, a Quechua woman who led the work of drafting the new constitutional text in a decision-making space with 34% female representation (Coordinadora de la Mujer, 2011).

Within the framework of the constituent process, through a policy of alliances, indigenous women's organizations and organizations of the non-indigenous women's movement joined forces to elaborate a joint program with specific demands called "Consensus of the women of the country towards the Constituent Assembly". This consensus took up a central debate historically demanded by parent organizations and social movements: decolonization and depatriarchalization as linked processes[6] . This linkage implies

6 This connection was first made in 2009 by "Mujeres Creando", an anarcho-feminist movement formed since 1992, who wrote a graffiti whose message was later taken up by the government: "There is no decolonization without depatriarchalization". Decolonization focuses on addressing exclusion, marginalization, discrimination and racism as an inheritance from the colonial era, the effects of which are manifested in

problematize this last category as a two-way process that proposes the notion of decolonization from the need for depatriarchalization (Chávez et al., 2011). This and other proposals faced diverse resistance from a racist, macho and conservative society that felt its class and privilege interests affected by the "feminists" who attacked good customs, and by "the cholas"[7] who have nothing to contribute to Western society.

Due to the aforementioned resistance, indigenous and non-indigenous women's movements were excluded from participating in the final negotiation during the so-called "Congressional Agreement" of October 5, 2008, which led to the weakening of the depatriarchalizing message of the original text. This could be the reason why depatriarchalization does not have an explicit normative reference base in the Constitution,[8] generating that the Bolivian constitutional mandate and, therefore, the programmatic motto of the Plurinational State is that of decolonization, in the framework of which depatriarchalization is addressed in a more timid manner.

Despite this setback, the Constituent Assembly marked a before and after in several issues related to indigenous women:

- The gender perspective was mainstreamed throughout the constitutional text and, particularly, in the human rights catalog through the elimination of the multiple forms of discrimination existing in the country, especially gender discrimination.

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postcolonial structures and in the present (Ströbele, 2013, p. 82). Depatriarchalization rescues the critique of a universalist, univocal and homogeneous view of "being a woman", which discursively colonizes the material and historical heterogeneities of women's lives in the Third World (Mohanty, 2008; Lugones, 2008). This implies contemplating that indigenous and Afro-descendant women experience patriarchy in a different way from white and mestizo women (Cumes, 2009).

7 Ethnic term, often used disparagingly, referring to indigenous women in the Bolivian highlands who continue to wear their traditional dress.

8 Reference to depatriarchalization is only made in subsequent legal instruments, which link it to the concept of gender equity, complementarity and the elaboration of public policies based on a plurinational identity. See National Human Rights Action Plan (Official Gazette of the Plurinational State of Bolivia, December 10, 2008, No. 29851); National Plan for Equal Opportunities: Women Building the New Bolivia to Live Well (Ministry of Justice, 2008, no. 29850); Education Law "Avelino Siñani - Elizardo Pérez" (Official Gazette of the Plurinational State of Bolivia, December 20, 2010, no. 070); and Comprehensive Law to Guarantee Women a Life Free of Violence (Plurinational Legislative Assembly, 2013).

- The political participation of indigenous and non-indigenous women has increased, for example, since 2010, 50% of ministerial portfolios are held by women, many of them from popular sectors (INSTRAW, 2006).
- The Constituent Assembly also generated a scenario of transformation for ethno-political organizations that opened the debate about the demands for specific rights and about the living worlds marked by inequality and subordination within ethnic communities (Ströbele, 2013).

In addition to the gender issue, another transcendental advance instituted by the constituent process was the legalization of the self-determination of indigenous peoples, understood as the exercise of self-government, the election of authorities by custom, the administration of economic resources and the exercise of legislative, supervisory and executive powers (Plurinational State of Bolivia, 2009, Art. 272; Plurinational Legislative Assembly, 2010, No. 031).

In accordance with the Bolivian constitutional mandate, the corresponding administrative structures were established in 2006. In relation to the topics previously developed, the creation of the Vice-Ministry of Indigenous and Native Peasant Autonomy (within the then Ministry of Autonomies) and the Vice-Ministry of Decolonization (within the then Ministry of Culture), in which the De-Patriarchalization Unit was created, stand out. The Unit took up the proposal of interrelation between de-patriarchalization and decolonization, awakening in the country a broad theoretical debate on the relationship between colonialism and patriarchy; despite the fact that in practice the absence of a clear public gender policy from the standpoint of cultural diversity became evident.

With this brief review of the normative and institutional transformations, I show that the Constituent Assembly meant a new juncture that bet on the full recognition of the rights of indigenous peoples, being central the constitutionalization of indigenous autonomies, as a fundamental basis for the realization of the Plurinational State. In relation to gender, this space has allowed the questioning of patriarchal customs and even their replacement, at least in the discourse, by "new" values that accompany the process of decolonization in favor of indigenous women's rights, both at the national level and in the communities to which they belong. Next,

I detail the concrete forms assumed by the state from the indigenous regions of Bolivia and show how Aymara women took advantage of the spaces opened up by a new institutionality that they recognized as their own and before which they disputed their rights.

The long history of the struggle for the original autonomy of the *ayllus* and complementarity

For Totora Marka, the consolidation of native autonomy implies the official recognition of their territorial and organizational structures and ancestral normative systems. This demand has a long history in the country, with multiple struggles for the reconstitution of the Andean *ayllus* and the restitution of jurisdictions to traditional authorities.

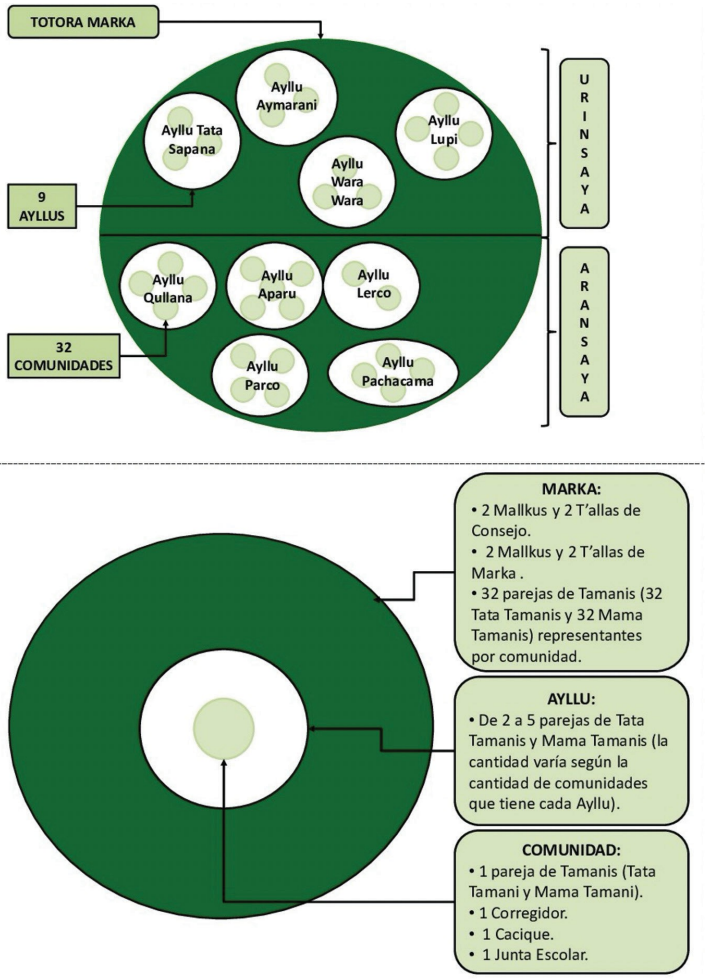
The ancestral organization of Totora Marka (see Figure 1) is based on the *suyu-marka-ayllu-community* logic:[9] at the national level, it is part of the National Council of Ayllus and Markas of Qullasuyu (CONAMAQ);[10] at the regional level, it is part of the Suyu *Jach'a Karangas*, made up of 12 Markas (current canton municipalities);[11] the Marka is made up of nine *ayllus*, and each *ayllu* has two to five communities; each community has around 40 to 80 *sayañas* (set of plots belonging to a family). The Marka in turn is subdivided into two partiality under the duality of the *aransaya* (partiality of the south side of the Marka) and *urinsaya* (partiality of the north side). The ancestral structure of Totora Marka, as in the rest of the peoples of the Bolivian highlands, is characterized by its complexity and a dense web of social relations in force, with its particular variations.

9 The *suyu* refers to the geographic region composed of several markas. On the other hand, as shown in Figure 1, the marka is the territorial unit made up of several *ayllus*, which group together several communities.

10 It represents the Aymara, Quechua and *Uru ayllus* of the departments of Oruro, Potosí, Chuquisaca, La Paz and Cochabamba.

11 Organizationally, it answers to the Western Council of *ayllus* and markas *Jacha Karangas.*

Graph 1
Ancestral territorial organization of Totora Marka



Urinsaya: Parcialidad del lado norte de la Marka.
Aransaya: Parcialidad del lado sud de la Marka.
Marka: Unidad territorial conformada por varios ayllus.
Ayllu: Unidad básica de organización que está constituida por varias comunidades.
Comunidad: Unidad conformado por varias *sayañas*.
Sayaña: Unidad básica conformada por familias.

Own elaboration.

According to the administrative division of the State, this territory is called the Province of San Pedro de Totora, with a single municipality of the same name. Since the ancestral structure coincides with the political division of the state, it was expected that the establishment of its original autonomy would be more agile. Because of this coincidence, the municipal government (constituted by a Municipal Council and an executive body presided by a mayor or mayoralty), would become an original government that would respect the norms, institutions, authorities and procedures of the Aymara communities. This concordance of territorial structures does not always happen in other Markas of the country. In this scenario, the autonomous statute would enter into force immediately.

Totora Marka is governed by two central principles, which are fundamental for self-government and women's participation:

- That of *sarathakhi-muyu*, which is the concentric rotation of positions performed by *sayañas* and implies the sequential fulfillment of the different positions in the system of authorities.
- The principle of complementarity, translated as *chachawarmi* (*chacha* = man and *warmi* = woman), which is an Aymara category linked to an idea of equality, duality and parity between the feminine and the masculine present in all dimensions of life in the Marka communities. In this sense, the deities have gender, as well as the sacred places, the spatial and territorial order (*aransaya* partiality = associated with the masculine, *urinsaya* partiality = linked to the feminine). Thus, a series of explanatory pairs are established that are not antagonistic but complementary; that is, they do not exist one without the other (Gutiérrez, 2009; Choque & Mendizábal, 2010).

The system of authorities (see Figure 1) is governed by the ancestral territorial organization of the Marka: *suyu-marka-ayllu-community* and is structured around these two principles, so that the exercise of the positions falls on the *"chachawarmi"* couple. Most communities have four authorities: *Tamanis* couple, Corregidor, Cacique, Educational Council. The highest authority at the communal level is the couple of *Tamanis* (*Tata Tamani*: male authority; and, *Mama Tamini*: female authority), also called *Awa- tiris* (shepherds of the grassroots community members). All marka authorities are led by two pairs of *Mallkus* (male authority) and *T'allas* (female authority) of Council, and two pairs of *Mallkus* and *T'allas* of Marka.[12] All the

12 One of the pairs of *Mallku* and *T'alla* de Consejo, and another of *Mallku* and *T'alla* de Marka represent the *Urinsaya* partiality; and the other two represent the *Aransaya* partiality.

The original positions are exercised in *chachawarmi* complementarity, while the communal political positions, such as corregidor, cacique and school board, may or may not be exercised in pairs. This system of authorities coexists with the State (present mainly in the municipal capital), so there is an intertwining of different government structures mounted one on top of the other, which often generates tensions between the ancestral system and the State.

The Totora Marka population has a strong identity-territorial rootedness and ties to this system of native authorities, as well as to the uses and customs of the territory. At the same time, it is distinguished by its great mobility between the rural and urban worlds, resulting from constant temporary and permanent migration to the most important cities in the country and even abroad, a process that responds to the growing family smallholdings. As a result of this mobility, people who live in the Marka are called "sayañeros" and permanent migrants in the city are called "residents". The heterogeneity of the Totoreño population is also the result of the presence of several churches established in the communities. As will be discussed below, both the resident population and the members of the various churches were the sectors most opposed to the self-government of the Marka.

There is a historical struggle for the self-determination of this original people and, in general, for the autonomy of the *ayllus* of the Bolivian altiplano. These are the basic institution found as an organizational unit in the ancient and current Andean community, which determines its political, economic, religious and social form (Coaguila, 2013, p. 26). This institution is opposed to the model of Bolivian agrarian unions, characterized by being the free union of peasants that are permanently constituted in order to defend their interests.[13] Women participate differently in these two forms of organization: in the *ayllu*, participation is dual, while union positions are held individually, either by a man or a woman.

To understand the historical struggle for self-determination, Table 1 summarizes the reconstitution and ethnogenesis of the *ayllu* (López-Ocón, 1985; Aber-Crombie, 1991),[14] and the progressive strengthening of complementarity.

13 These unions were created in the 1930s and were consolidated with the agrarian reform, between 1953 and 1954, imposed by the then Ministry of Peasant Affairs (Machicado, 2010, p. 11).

14 That is, the historical foundation that guides its constant institutional changes.

Table 1
Reconstitution, ethnogenesis of the
ayllu
and strengthening complementarity

The *ayllu* has existed since pre-Inca times as a way of adapting to the altiplano environment t h r o u g h t h e use of ecological floors and agricultural specialization (Harris, 1987; Murra, 1975; Golte, 1981).
The *ayllu* was assimilated and became the basic cell of the Inca state structure, undergoing changes under the influence of new factors that occurred in that society (Villalpando, 1952). *Jach'a Karangas* emerged as an Inca administrative u n i t in the central highlands.
The Spaniards reused the *ayllu* and made it functional to the regime, transforming it into indigenous reductions (haciendas, mitas, mines and reductions) (Guzmán, 1976; Espinoza n.d.: 118).
In the republican stage, the State was built by the Creoles, who aimed at social modernization projects basically aimed at the destruction of the *ayllu (*Marten Brienen, 2000). Laws were passed that quantitatively increased the latifundista property, generating the displacement of the indigenous p e o p l e , who lived autarchically in the rural areas of the republic (Coaguila, 2013, pp. 76-87). The increasingly large estates of the landowners enclosed the indigenous communities in a system of feudal exploitation (Guzmán, 1976, pp. 205-206). ➜ In Totora Marka, few haciendas were established in contrast to other regions (due to the conditions of the region). The region's climate is typical of the altiplano and the scarce mineral resources it has). A Despite this, they still maintained a relationship of exploitation, stalking and servitude. ➜ Totoreño women were *"practically enslaved as servants"*. "the mentality of submission" is established, a concept proposed by Cervone and Cucurí (2017, p. 209), which is useful for analyzing the historical processes of formation of power structures and social hierarchies, and the persistence of dehumanizing practices in the daily life of the indigenous community, which generated dynamics where men exercise violence over the bodies of women and children in their families.
➜ Totora Marka was in charge of 4 central authorities: Jilacata (elected by sarathaki-muyu), Ca-cique, Corregidor and Alcalde Mayor. According to oral history, the position of Jilacata was to be exercised in couple, but it was not yet an obligatory principle. In a context of *ayllus* insurrection, the hacienda families voluntarily left the territory.
Despite the innovative reforms resulting from the national revolution (1952), "a mestizo (or peasant) identity was founded, not indigenous" (Coaguila, 2013, p. 100), which explains the "transit from feudal society to a capitalist one" (Rivera, 1984, p. 87), which marks the state genesis of legitimization and legalization of unionism in agriculture before the *ayllu.* ➜ This led Totora Marka to take over the union structure, losing the importance of the original position. The Jilacata ginary, which ended up playing a purely symbolic role. At the same time, they acquired a greater preponderance the Corregidores, who were considered the *kamachis* (mandate, Law) or main authorities of the Marka. The stronger the union became in the Marka, the weaker the exercise of *chachawarmi* became.

During the decade of the 80s and 90s, through Indianism-Katarista, "the state reordering and decolonization of society with an indigenous horizon and the reconstruction of Kollasuyo" (Díaz, 2014) was proposed: which implicitly implied the reintroduction of the indigenous issue (Ticona, 2000, p. 44).

Within this context, in 1987, the first assembly of *Jatun Karangas* (now called Jacha Karangas) was convened and since 1990 multiple meetings of different Andean indigenous organizations have been held, with the aim of symbolically and organizationally reconstituting the *ayllus* that had disappeared or had become unstructured. The reference is to the pre-colonial political and economic structures of the Tawantinsuyo *ayllu* or Inca state, in order to adapt them to the contemporary historical context (Coaguila, 2013: 137-141) and achieve self-determination.

- With the reconstitution of the *ayllus* in Totora Marka, the Caciques became known as Ma-. llkus and the Jilacatas were called *Tamanis or Awatiris* (recovering the power they used to have, by what the *kamachis* became again).
- The exercise of the principle of complementarity (*chachawarmi*) in the marka was consolidated, becoming mandatory for the entire system of native authorities, and also began to be demanded. in regional and national spaces.

Own elaboration.

The last 30 years have been characterized by important social movements led by the Confederation of Indigenous Peoples of Eastern Bolivia (CIDOB), from the lowlands, and CONAMAQ, from the highlands, producing the most notable insurgencies that have been the basis for the continued reconstitution of the *ayllus. In* addition to the social movements, the Totora Marka inhabitants consider that the legislative and symbolic changes that occurred during the MAS-IPSP government have generated the strengthening of their organizational structures, complementarity (which is now a rule that must be obligatorily respected in the exercise of native positions), rituals,[15] festivities,[16] of their traditional dress and their identities as indigenous peoples.

This brief reference to ethnogenesis and the reconstitution of the *ayllu* shows that, starting with its relationship with the State, Totora Marka has had a history marked by cuts, tensions, subordination and resistance. It is a non-linear process that, despite the multiple transformations and readjustments, has maintained

15 Rituals have a historical importance in the exercise of the offices. According to Table 1, before the National Revolution of 1952, these ceremonies were performed with a certain degree of rigor. With the unionization and the arrival of various religions to the marka, these rituals lost strength, being labeled as "pagan". With the reconstitution of the *ayllus*, they gradually began to be performed again, becoming more standardized after the CONAMAQ was organized. Since Morales came to power, the rituals became even more rigorous and public.

16 These festivities were strengthened since 2007, when the municipality was declared capital of the tarqueada, which is a tune played with a 46 to 64 centimeter flute called *tarka*, made of wood, which is accompanied by drums and bass drums.

and strengthened in the last decades, becoming the banner of the struggle for the self-determination of the Andean Markas. This dynamic and highly adaptive institution became even more vigorous with the transformations generated by the Plurinational State. Complementarity is based on this communal socio-political organization, being defined as an organizing principle of the identity of the *ayllus*.

The participation of Totoreño women in the process of conversion to original autonomy

The process of conversion to original autonomy in Totora Marka had two distinct stages, with marked differences in female participation, in addition to divergent advances in the self-determination project. The first stage -from 2009 to 2011- which corresponds to the new constitutionalism in Bolivia, was characterized by sustained support for self-government by the Totora population, with a majority "Yes" vote, a commitment to the drafting of the autonomous statute and an active participation of women. The second stage - from 2012 to 2015 - reveals the long road that this marka had to travel to achieve the approval of a referendum date for its statute. The prolongation of the process shows the changes and contradictions of the Plurinational State and the technologies of hegemonic power that generated local divisions around the autonomy project, a context in which women's proposals were abandoned.

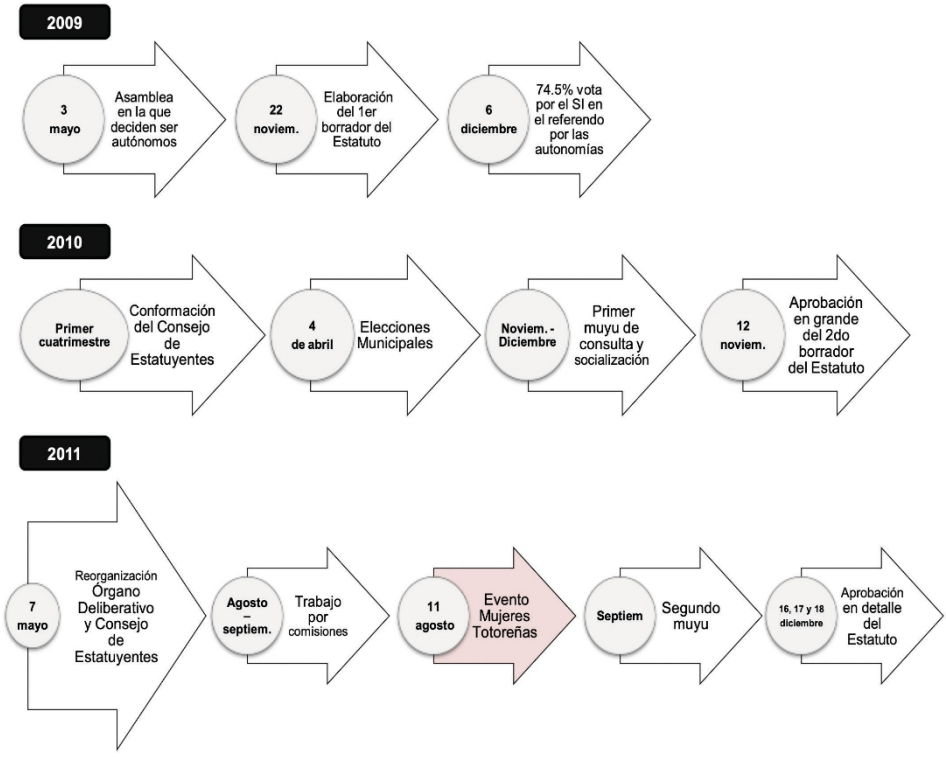
From *"chachawarmi"* to *"chachawarmi-warmichacha"*: resignification of complementarity and vernacularization of rights (2009 to 2011).

The first stage followed several processes that reveal support for the autonomy project (see Figure 2). Several factors explain this majority support, despite the general ignorance of the recently approved constitution and its implications for autonomy: the referendum took place in the context of a national political moment that was governed by the idea of a state transformation, which generated a strong process of self-identification with the revaluation of indigenous rights (Molina-Barrios, 2018); the territorial reconstitution of the marka was carried out through the acquisition of the Tierras Comunitarias de Origen (TCO),[17]

17 Territories held by indigenous peoples through collective title.

which would motivate the search for native autonomy; this territory is characterized by a strengthened indigenous identity and greater rootedness towards the traditional; and there was a marked dissatisfaction and distrust with the administrative and financial management of the Municipal Government (Funaki, 2019).

Graph 2
First stage of the process of conversion to
Totora Marka's original autonomy



Own elaboration.

After the referendum, the next step was the drafting of the self-nomic statute. During the drafting process, there was a collective interest in consulting the contents of this document with the different sectors of the Marka population. Despite this effort, the scarce participation of women in several of the processes described in the previous chart was evident, in addition to the constant omissions of

the proposals of the Totoreñas. Faced with this fact, a group of women demanded the organization of a meeting only of *mamas,* which was held on August 11, 2011 and was called "Meeting of Totoreño Women". This event was attended by representatives from different communities, grassroots women and *Mama Tamanis*, who reached agreements to include their demands in the statute.

The participants of the Meeting mainly analyzed the practice of *chachawarmi* complementarity, concluding that it is a principle respected in mainly regional spaces of the marka in which the self-governments of the different territorial levels of Totora (*community/ayllu/marka*) converge. These spaces are public, collective and central to the reproduction of communal life, among which the marka assemblies, rituals and festivities stand out,[18] characterized by disciplining, surveillance and forms of complementarity. In contrast, women considered that in the community space there is a lack of compliance with the *chachawarmi*, with social control falling back on the duty to be and on gender ideologies. This does not mean that at the regional level women do not face discrimination, nor that at the communal level complementarity is not fully complied with; in reality there is a combination of the two dimensions at both levels, but also notable differences.

Succinctly and for reasons of length, in this manuscript I will only develop the marka assemblies as an example of the regional spaces in which complementarity is fulfilled. These assemblies (called *Jach'a Mara Tantachawis*) are attended by the 32 Tamani couples representing each community and there is a strict control of compliance with the *chachawarmi*: For example, it is mandatory that *Tamani* couples sit together respecting this principle and the couples of authorities are required to be married by the civil registry and prove it with a marriage certificate. This rigorousness generates that more and more women attend these assemblies (of the total number of authorities present at the 2015 marka meetings, 49% were women). In this type of spaces, *mama tamanis* and *t'allas* play an important role as agents of discipline; for example, marka *t'allas* are in charge of checking the clothing of *tamani* couples. Because of this important role, the women consider that in the marka assemblies they are listened to and considered in decision making.

Despite this high female participation in the regional meetings, the Totoreño women themselves identified the following violations:

18 See Arteaga (2018) to expand on the topic of rituals and festivities.

- These assemblies are presided over by the *Mallkus*, which means that the function of the *mama tamanis* is reduced to collecting money and taking care of the food for the events.
- Although complementarity discursively implies the non-hierarchical exercise of positions, in practice there is a majority male dominance. This facet is linked to the patrilineal inheritance of the land, which means that men are the representatives of the *sayañas* and the families before the community, and that they are in charge of the positions. Women are then left only as "companions". In spite of this, they constantly negotiate their place in order to have a greater participation in communal affairs, generating more and more cases in which women hold the positions.[19]

It is in the domestic and community space where women identified a series of oppressions that mark the distances between *chachawarmi* as a principle and as a discourse, which are interwoven with the different systems of oppression such as class, race and gender. This intersectionality of violations responds to a structural context marked by poverty -Totora Marka has one of the highest rates of Unsatisfied Basic Needs (UBN) in Bolivia- which generates a constant spatial mobility, a growing smallholding of land, precarious access to education and health; and in the city, discrimination and racism.

Based on these elements, the Totoreño women identified the inequalities they face within their own communities and families, which are understood from two cultural categories that were used in the Marka to establish the differences between men and women, and that continue to mark gender relations: 1) Being *Pampa chhuxuñaw* (sitting urinate), a term used pejoratively to point out that women are "like animals who do not even know how to urinate"[20] and to sustain a series of discriminations; and, 2) being *Mayt`ata* (borrowed), a category extensively developed by Choque (2009, p.

19 Either because the husband migrated to the city, or because his workload does not allow him to fulfill the responsibilities of the position.

20 Idelfonsa Choque, a grassroots woman, told me that because she was a *"pampa chhuxuñaw"*, the girls had to eat with their hands and the boys with spoons, because of the belief that when the girls used spoons they caused the llamas to be born with deformed legs, to which she added that this "was a way of pushing us aside as *imillitas* (little girls)".

10), which in the domestic sphere places the woman as a nonentity, not belonging to the family, so that investment in her upbringing should be minimal.

Totoreño women attribute this discrimination to patrivirilocal postmarital residence, which establishes that the newly married couple resides in the husband's paternal home. Both categories are linked to the different forms of gender oppression within the national and local histories of the marka, related to racialized violence against men and mainly against indigenous women in the hacienda system (as I mentioned when discussing the ethnogenesis of the *ayllu* in Table 1). Around these categories, Totoreño women listed different forms of violence that contradict the principle of complementarity, which I summarize in Table 2.

Table 2
Vulnerations identified by Totoreño women

➜ **Multiple gender roles** Totoreño women are responsible for child rearing, household chores, household activities The women are responsible for agriculture and livestock raising, weaving and spinning clothes, and "taking care" of their husbands, among other responsibilities. Many women, especially those who are heads of household, are also responsible for the economic support of their households, with a triple workload of reproductive, domestic and productive work. Due to the increase in male migration, women are responsible for both livestock and agricultural activities, the latter being the responsibility of men.
➜ **Lack of access to and tenure of land by Totoreño women** In Totora Marka, the size of farmland or individual plots *(sayañas)* varies from one to another. extended family through the paternal line, i.e., the heirs to the land are the sons. The different variations of land inheritance in Totora Marka, considering gender are: a) In most cases, the land is inherited by the sons, so that women are subject and e x c l u d e d from the cultivation of their husbands' land. b) women usually inherit the grazing animals. c) Women inherit only *chiquiñas* (small plots of land), which, due to the distance between the women's community of origin and the community of their partners, where they live after marriage, often cannot be planted and are left in the hands of their brothers. d) women inherit land equally when the family has only female daughters. e) There are some cases of women who inherited the land through the migration of their male siblings. f) In the case of divorced women, they can inherit their parents' land only if they live in the marka; if they decide to migrate, they lose access to the land. g) There are cases of men who left their land to live on their wives' land. This overview reveals that despite official land reforms, women find themselves in a particular situation of vulnerability and constant violence when they try to gain access to *sayañas*.

➜ **Various difficulties in access to education** In general, Totoreño women have lower levels of education and schooling than men. and at the same time they are more monolingual. Both factors respond to family gender ideologies, which establish that investment should be made in the education of boys and not in girls, due to the latter's status as *mayt'ata* (borrowed) and because they are *pampa chhuxuñaw* (they urinate sitting down), so they should only be responsible for herding animals and caring for their younger siblings.
➜ **Unequal processes of migrant women's insertion in the city** Male migration is markedly higher than female migration. Usually, men are inserted in activities such as masonry and mechanics, and Totoreño women in jobs such as cooking, domestic work and market trading; which makes visible the naturalization of their role of servitude (Peredo, 2006, p. 10; Díaz, 2014, p. 143). In general, male migrants have better processes of insertion in the city, achieving a certain economic stability. The experience of Totoreño migrant women is different, since because of their monolingualism and because they maintain their native dress, they experience greater culture shock and for these reasons, continued discrimination both in the street and in their own jobs.
➜ ***Ayllu* and community assemblies as masculinized spaces.** Of the total number of *ayllu* and community assemblies that I observed between 2014 and 2015, 36% were women, which is a markedly lower percentage than the 49% of the Marka assemblies. According to Totoreo women, this occurs because in the *ayllu* and community assemblies it is not obligatory for the grassroots community members to participate, respecting the principle of *chachawarmi, and* only men must attend as representatives of the *sayaña. In* addition to this scarce presence, in these assemblies the men are located in the front part of the enclosure, and the women in the back part to take care of their children; which creates a division between the men who are in the front addressing communal issues, and the women who are in the back, talking about private and domestic issues. However, I was able to observe some exceptions of *ayllu* and community assemblies where there was a high female presence, which resulted in women being located both in the front and in the back of the enclosure.

Own elaboration.

The series of local inequalities that directly affect women, based on gender ideologies (such as "*mayt`atas*" and "*pampa chhuxu- ñaw"*), and other customs (such as patrilineal inheritance of the land and postmarital patrivirilocal residence), impose a feminine and masculine duty to be that pre-serves the different oppressions.[21] These violations place Totoreño women in the most subordinate part of the asymmetrical power relations within the marka. For these reasons, the dynamics within the territory should not only be understood through colonial binarisms and hierarchies of "Indians" and "mestizos",

21 It is important to consider all aspects of these violations identified by the participants in the meeting. For example, it is very complex to interpret the silence of women in the assemblies as clear proof of their marginalization, since the Totoreñas themselves mentioned that it is in the domestic space where decisions on collective matters are made, with men being the spokespersons for what is agreed upon in pairs.

as Marisol de la Cadena (2008) warns, but also by internalized gender hierarchies within indigenous families and communities, which often place their women at the bottom level of racialized systems of subordination (Weismantel, 1989; De la Cadena, 2008; Radcliffe, 2015; Sierra, 2017).

The family, communal and structural violence faced by Totoreño women as a result of their class, ethnicity and gender cannot be separated from the long history of racism and colonial oppression linked to the construction of the national State, which has continuously subordinated indigenous peoples. Based on these identified violations, the participants of the "Meeting of Totoreño Women" proposed the reformulation of complementarity, suggesting that instead of "*chachawarmi"*, we should speak of "*chachawarmi-warmichacha*" (see Table 3).

Table 3
Proposals of Totoreño women around
the *chachawarmi-warmichacha*

➜ Definition of *chachawarmi-warmichacha:* • In the case of the native authorities, it means walking together; in the case of the grassroots community members, it means walking together. mutual support and assistance.
➜ It involves the creation of the following instances: • Formation of a Totoreña Women's Organization to manage training and capacity building projects. and ensure economic income for women. • Creation of a Women's Committee to defend the rights of each member of the c o m m u n i t y , watch over the victims of violence and propose strategies to prevent it.

➜ It is governed by the following mandates:
• The fundamental basis is the exercise of the positions as a couple:
  • In half of the couples, the position should be held by the *breasts.*
  • All the positions of the Statute (territorial delegates, corregidores, members of the Original L e g i s l a t i v e Council, Marka Irpiri, among others) must be exercised under the *chachawarmi-warmichacha* modality. This modality should also govern political positions.
• In the case of positions that are not held in pairs, political participation with parity and alternation shall be respected.
• Women's opinions must be considered in decision making.
• Assemblies must have fifty percent female participation at all levels (community-ayllu-marka*).*
• Assemblies must be held in Aymara.
• Women have the right to represent their *ayllu* or community even if they are single or widowed, with the support o f their relatives.
• Eliminate the requirement of "having education up to secondary level" for the election of the highest executive authority of the future autonomous government, since it excludes the majority of the population, m a i n l y women.

➜ The autonomous government shall respect and promote the following rights of Totoro women: • Prohibits all forms of discrimination against girls, adolescents and women in health centers, health centers, and other health centers. educational centers, workplaces, public and private institutions, ensuring respect for their native identity. • They must be part of any consultation carried out in the territory. • Redistribution of domestic work with the partner, mainly childcare. • Imparting *"courses on chachawarmi",* in which the importance of shared parenting is discussed. • Women have the right to decide whether or not to take their husband's last name.
➜ Right to education: • Equal access to education. • Establishment of *wawa utas* (children's homes) and family support for women with children to continue studying. • Creation of a public university in the Marka with technical careers. • Prohibition of discriminatory treatment of pregnant teenagers in schools. • Courses on leadership, law and human rights for elderly women, taught in Aymara.
➜ Right to health: • Freely decide the number and spacing of children they want to have. • Choose the type of delivery. • Information courses on reproductive health and integral care of women. Establishment of a school of midwives and traditional medicine, in which women transmit their knowledge and cultural practices on traditional medicine.
➜ Right to land: • Equal inheritance of land. • To ensure the inheritance of the husband's land in the case of widowed women. • Inheritance of the land to the men and women living in the Marka.
➜ Access to justice: • Any case of physical, psychological or sexual violence must be sanctioned by the original justice system or by the ordinary justice. • Cases of sexual violence should be severely punished by the jurisdiction handling the case. • In all cases of domestic violence, the authorities must draw up good conduct reports. • Revalue the importance of godparents, fathers and mothers as counselors and advisors to the couple. • The Totoreña Women's Organization will support the administration of justice, mainly in the follow-up of domestic violence cases. • Sanctions for men who do not accept their paternity.

Own elaboration.

The proposal summarized above reveals the great creativity of Totoreño women in using the same concept of complementarity to expand its meaning and redefine the autonomous project of their people, from their languages, needs, senses and feminine visions; with a perspective that

allows connecting their forms and cultural references and collective identities with the demands of gender equity. In this way, complementarity was the axis of women's proposals insofar as it referred to a fundamental principle of communal organization based on practices with their own materiality.

These women's demands were also made through a language of rights, since, in general terms, they demanded protection in the face of the different situations of subordination they faced at certain times in their lives, as well as equal access to education, health, land and justice. These facts refer us to the process of vernacularization of the human rights discourse which, according to Merry (2009), implies the adoption of global discourses/values (such as human rights) to reappropriate them from ideological and social attributes of the place (Levitt & Merry, 2009, p. 446). In this sense, although rights come from a more liberal register, they are a symbolic weapon to which the Totoreñas appeal in order to question subordination and gender violence, and to dispute their space both in the public sphere of their organizations and in their own domestic relations.

The women also discussed the rights of *chachas* (men), *yocallwawas* and *imillwawas* (boys and girls), *jaju* and *majta* (youth), *awichas and achachilas* (elders) and people with disabilities. In this way, the Totoreñas show at all times that they are part of a larger community that makes up the Marka. Here lies the importance of overcoming the dichotomy between the rights of indigenous peoples, human rights and women's rights, and to raise them in inter-section and interrelation (FIMI, 2006), since the feminine proposals for the reformulation of complementarity cannot be separated from the collective demands for the self-determination of the Marka.

The male authorities reacted in two different ways to the female proposals:

- Some described women's demands as opposed to complementarity, arguing that the rights claimed "divide and fragment the collective". Often the opposition between collective rights and individual rights is also presented, at the local level, as a strategy for ignoring gender demands and continuing to naturalize the subordination identified by women themselves.

res. This position shows that there is a dispute over the meaning of *chachawarmi*, since some men use the principle of complementarity as an essentialist and static concept, as a strategy to ignore the specific demands of women (Sanabria, 2006). This contrasts with the vision of the Totoreñas, who see *chachawarmi as a* flexible principle that is susceptible to change.

- Other men supported female demands under the argument that the path to self-government implies opening the debate on gender subordinations; to these men, the resignification of complementarity urged them to be congruent with their discourses, inviting them to put into practice the principles and values they proclaim (Hernández, 2001; Macleod, 2011).

The statute document approved by the Deliberative Body (on December 18, 2011) did not include the term *chachawarmi-warmichacha* proposed by Totoreño women, nor did it include the creation of a Totoreño Women's Organization to support the original autonomous government. However, it did incorporate the sense of other women's proposals: it established that the *chachawarmi would* be the basis of the autonomous government; it instituted equal rights, duties, obligations and opportunities for men and women; it established that the election of representatives would be carried out with equity, expressed in parity and gender alternation, according to the marka's own norms; it eliminated educational levels as requirements to occupy the different positions; it proposed mechanisms for the prevention and protection of women victims of gender violence, among other demands.

A central element that contributed to the consideration of the men's faith-based demands was the fact that these visions and claims were made within the framework of the broader process of reinventing the indigenous government, which was a particular juncture that led to the debate on the relationship between the collective rights they have as native people and the rights of Totoreño women.

The long and difficult struggle for autonomy of Totora with a gender perspective (from 2012 to 2015)

According to several native authorities of Totora Marka, in this second stage the MAS-IPSP government "left the indigenous autonomies to their fate". This abandonment generated different tensions between the State and the indigenous peoples.

The Plurinational State deployed two technolo- gies of power (Foucault, 2006, p. 136):[22]
1) the loopholes and limits of the legal order; and 2) time delays and state bureaucracy.

In relation to the first technology, it is important to point out that the Marine Autonomies Law established a series of requirements[23] and more than 14 procedural steps for indigenous peoples who wanted access to self-determination; these marked the beginning of an extensive and exhausting path for the territories converting to indigenous autonomy, detailed in Figure 4.

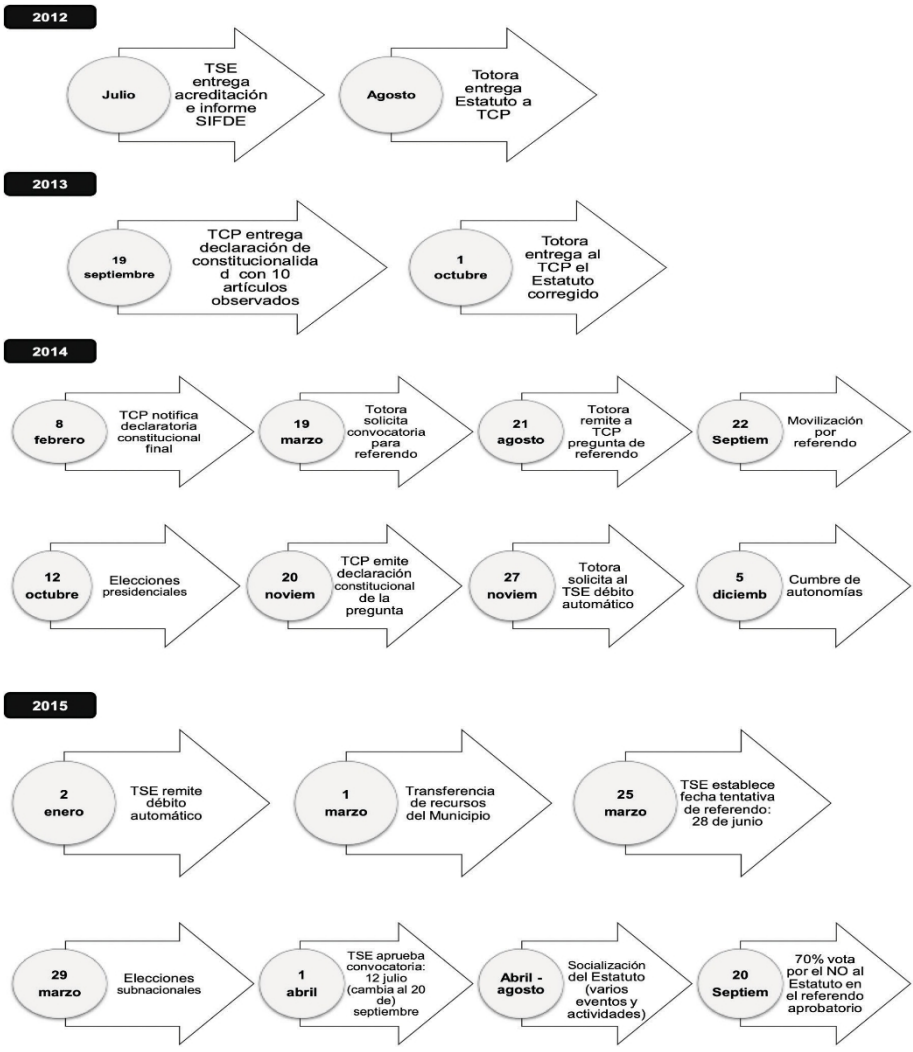
In relation to the second technology of power (time delays and state bureaucracy), Figure 4 shows that Totora Marka took about one month to prepare each request and response to state institutions and agencies. In contrast, the State took between four months and a year. This caused the establishment of the autonomies to take approximately two to six and a half years.

Parallel to the counter-routes of the Plurinational State, at the local level, differences in power relations, divisions and political factionalisms, resulting from old local disputes, became more acute. As of 2010, the municipality was characterized by a majority MAS-IPSP majority, which would be on a provisional or transitory basis until the process of conversion to autonomy was completed, which implied reducing its management from five to two years. The Municipal Government became the main opponent of this project in order to avoid the shortening of its mandate and to ensure that it would be subordinated to the original autonomy.

22 Foucault points out that these technologies are understood as the set of institutions, procedures, calculations and tactics that make it possible to exercise power over the population.

23 For example, the territories had to obtain a certificate of ancestrality granted by the Ministry of Autonomies, which implied proving that the current jurisdictions of the municipalities historically correspond to the ancestral territoriality of the indigenous people that inhabit them, whose existence is pre-colonial. This requirement shows that more value was given to the legality of the process and not so much to self-identification as established in the international framework of indigenous rights.

Figure 4
Second stage of the process of conversion
to Totora Marka's original autonomy



Own elaboration.

In view of the above, the converting peoples demanded that the referendum for the approval of the autonomous statutes be held before the referendum was held.

However, this demand was not heard by the State. In this adverse context, with the intention of having a municipality that supports self-determination, in the sub-national elections of March 2015, the majority of the population voted for the Popular Participation (PP) candidate and, at the same time, two statute members joined this institution, one as a major official and the other as a councilor. The strategy of the native authorities did not give the expected result, since the mayor, the municipal council and the statuyentes who joined as officials, continued with the campaign against the self-determination of the marka.

The Municipal Government's counter-campaign was joined by other actors, such as the MAS-IPSP provincial structure and the departmental government of Oru- ro, which also had a greater representation of this political party, which again demonstrated the contradictions of the Plurinational State. Together with these instances, an indigenous united front was formed by young people, residents, members of Christian religious groups and teachers, who developed different arguments against Totora Marka's indigenous autonomy.[24] At the same time, there was a change in the positions of several native authorities, who also ended up opposing self-government. Faced with the fatigue caused by the prolongation of the autonomy process, the Municipal Government was the safest option to gain access to positions of power and decision making, as was the case before the constitutionalization of the autonomies.

As a way of resisting state technologies of power, and despite local political divisions and factionalism, Totora Marka participated in several mobilizations of peoples in conversion to indigenous autonomy. During these actions, the native authorities appealed to the legal as a language of controversy, in Roseberry's terms (2007), to the extent that they disputed the very meanings of the constitutional autonomy discourse defined by

24 Among the arguments were that with self-determination the municipal budget would be lost, for which the State would charge taxes per family; that once the MAS left the government, the autonomous territories would be abandoned; that the *sarathaki-muyu* model (rotation of positions), would generate a "postponement of the highest positions". Among these arguments, a debate between communitarian democracy and representative democracy stands out, the latter appealed to young people because it coincides more with the liberal discourse they have on political participation, which responds to their high urban social mobility and their access to educational and work spaces different from those of their

parents.

the Plurinational State.[25] To avoid cementing a "top-down" autonomy, which imprints power relations, bureaucracies and control over community forms, the converting peoples demanded:

- Eliminate the state requirement for the elaboration of autonomous statutes, for which they appealed to the Electoral Regime Law (Official Gazette of the Plurinational State of Bolivia, June 30, 2010, No. 026), which establishes that community democracy does not require written rules, statutes or compendiums of procedures for its exercise, except by decision of the nations or indigenous peoples themselves.
- Prevent these statutes from passing through the constitutional control of the TCP, considering precisely the recognition of their autonomy by national and international regulations.
- Eliminate the double referendum, considering that the Constitution only provides for one consultation in which the population expresses its will to become indigenous autonomous.

The demands show that indigenous peoples defend the legal reforms carried out by the Plurinational State, insofar as they are the result of the constituent process and, therefore, of the long struggle of these peoples for their recognition. In this way, it is explained why the Law makes sense as a language of controversy and how difficult it is for the Plurinational State to control the meanings of the common discursive framework, evidencing the "fragility" of this regime of domination that reversed the very foundations that have given it legitimacy, such as the issue of indigenous autonomies.

The marked prolongation of the process generated that in the same referendum in Totora Marka, the departmental statute of Oruro and the statute of the original autonomy of the territory were consulted.[26] The departmental statutes put

25 Roseberry (2007, pp. 123-134) points out that the hegemonic process should be analyzed not only as consensus, coercion and domination from the state hegemonic bloc, but also as the result of a struggle between the formation of the state and the popular forms of daily action that confront and actualize it. Thus, in this political process a force field of controversy, struggle and debate is generated in which the dominant and the subaltern are connected. It is through a discursive framework "creator of words" and legitimizer of actions that states establish the rules and norms of domination.

26 The Framework Law on Autonomies (Plurinational Legislative Assembly, 2010) establishes three other types of self-determination according to the territorial organization of the state: departmental, regional and local.

The 2015 consultation were harshly criticized at the national level for being recent norms and, consequently, unknown by the majority of the population. In this way, the "No" vote was imposed in all departments, with more than 70% in the case of Oruro. The departmental statute of Oruro was also criticized by the Western Council of *ayllus* and markas *Jacha Karangas*, so that organically a resolution was taken so that the markas that compose it voted "No" to this norm. The decision to carry out a joint consultation of the indigenous and departmental norms caused confusion in Totora Marka; consequently, many people thought that the opposition of *Jacha Karangas* to the departmental statute also applied to the original statute.[27]

In this complex context, on September 20, 2015, a referendum was held to approve the statute, in which 70 % of the Totora Marka population voted No to the basic regulation, which contrasts with the 74 % support for autonomy in the 2009 referendum. This result implied maintaining the Municipal Government as the central institution of the marka and at the same time maintaining the system of native authorities. In the event that the authorities choose to resume the conversion process, they must rewrite the statute and go through all the procedures described in Figure 4.

Many native authorities affirmed that the delay of the process, via the technologies of power described above, was a political measure. Others consider that since Totora Marka was the first native people at the national level to obtain constitutional compatibility from the TCP,[28] was the first territory to face a deficient state institutionality that did not know how to act in the face of the new regulations, which ended up hindering the autonomy projects.

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and municipalities. The four autonomous regions had to draw up statutes to be approved in a referendum by the population.

27 A sample of the technologies of power imprinted on indigenous autonomies was that the Framework Law of Autonomies (Plurinational Legislative Assembly, 2010) established a much more agile process for municipalities that opted for the quality of municipal autonomy, since they only had to elaborate an organic charter.

28 Body in charge of exercising control over all jurisdictions and all organs of public power. The control of constitutionality of the indigenous autonomous statutes involves the comparison of the draft statutes approved by the deliberative body of the territories, in relation to the Constitution, in which the constitutional justice is pronounced by means of a declaration on such extremes.

Despite these counter-routes and technologies of power deployed by the Plurinational State, it is important to distinguish the heterogeneity within the MAS-IPSP government. For example, the Vice-Ministry of Original Indigenous and Peasant Autonomy was the state body that most supported and accompanied the conversion processes, despite the fact that it faced the withdrawal of some NGOs that were helping in these projects, constant budget cuts and the lack of political will on the part of the central government.[29]

In relation to gender, due to the context developed, the proposals around the "*chachawarmi-warmichacha*" resulting from the Totoreño Women's Event in 2011 were not taken up. Despite the abandonment of these women's demands, fundamental changes have occurred in recent years in relation to the opening of participatory spaces for indigenous women.[30] Among the most outstanding transformations is the election for the first time in the municipal government of a woman mayor and three councilwomen (of the five members of the municipal council). This is a historic result, as the female participation rate increased from 16% between 2004 and 2010 to 66% in 2015. The second change was the formation of the "Bartolina Sisa" Women's Organization in Totora Marka,[31] , which reveals greater flexibility regarding the possibility of having a women-only organization in the territory (this was one of the central women's proposals made in the framework of the re-signification of the *chachawarmi*).

The totoreñas attribute these transformations to several factors, among which the following stand out: the awareness generated by the elaboration of the autonomous statute in relation to gender rights; the national and regional openings in political positions, which at the local level contributed to mobilize gender ideologies; and the increase in the number of women in the region, which contributed to mobilize gender ideologies.

29 A sign of this absence of political will is that, in January 2017, the Ministry of Autonomies was dissolved and became a Vice-Ministry under the portfolio of the Ministry of the Presidency. In line with this change, the Vice-Ministry of Original Indigenous Peasant Autonomies was downgraded and is now called the General Directorate of Territorial Organization.

30 In the national context, during two consecutive administrations, women were elected as presidents of the National Coordinating Committee of Indigenous Autonomies, made up of representatives of the eleven municipalities that at that time were in the process of converting to indigenous autonomy. Similarly, the presence of indigenous women was central in the mobilizations for indigenous autonomies, either leading the blockades or as representatives of their territories in the delegations that entered to debate with the magistrates of the TSE.

31 The only women's organization that has been a founding member of MAS since 1995 and a member of the Bolivian Confederation of Peasant Workers (CSUTCB).

The national struggles of indigenous and non-indigenous women to be incorporated into formal politics, which led to the enactment of the Electoral Regime Law that establishes gender parity and alternation between women and men in the candidacy for various public offices.

In spite of these important changes in the political action of the Totoreñas, it is noteworthy that both come into tension with the autonomy of the territory and the main bets around this project, since it implies, on the one hand, the strengthening of the municipal government and the permanence of political parties and, on the other, the establishment of the union model in a marka governed by the original system of the *ayllu. In* other words, the State itself promoted the most liberal perspective of gender rights at the local level. I make this note to highlight the contradictions of the Plurinational State, and without the intention of detracting from the important participatory spaces that have opened up for Totoran women in recent years, who have maintained a historical struggle to increase their presence in different communal spheres as key actors in political processes.

Conclusions

The transforming bets brought about by Bolivian constitutionalism overturned the foundations of the nation-state in most of the Latin American continent and opened new horizons and expectations to re-found the Plurinational State from new bases. In this constitutional and legislative framework, I showed the capacity of the Andean *ayllus* to exercise their autonomy in practice and to recognize in their institutions and cosmovision the legitimate language to dialogue with the State and, from these matrices, to advance their proposals. The constitutionalization of indigenous self-governments in Bolivia opened the space for the discussion of gender ideologies and orders in Totora Marka. This allowed the Aymara women to build a gender agenda, betting on the discussion of structural principles of their social organization and cosmovision related to *chachawarmi*, whose redefinition was one of their main bets. This process allowed them to connect with global discussions on gender rights and self-determination. In this way, women took advantage of the impetus provided by collective action in defense of self-determination to confront male resistance, include their proposals in the final version of the autonomy statute and, subsequently, gain access to spaces for political participation in areas previously closed to them.

For the analysis of women's demands in the framework of the self-determination project of this Marka, I started from a culturally situated gender approach that considers culture as a terrain of dispute where symbols, principles and norms are constantly negotiated (Macleod, 2007, 2011; Her- nández & Sierra, 2005) and, in analytical terms, I approached the approaches of community feminism and decolonial feminism because of the importance of understanding the complex realities of Totoran women. Sierra, 2005) and, in analytical terms, I approached the approaches of community feminism and decolonial feminism[32] because of the importance of understanding the complex realities of Totoreño women and the need to approach their worldviews, proposals and identification of their subordi- nations marked by class and ethnicity. Within the framework of the two feminist perspectives, the results make visible:

- The strong intertwining of the specific rights of indigenous women and the collective right of this marka to self-determination.
- The dynamicity and readjustment of complementarity, which shows the possibility that Totoreño women have to overturn apparently immutable gender orders and their ability to move the margins of the *chachawarmi* and, from within, redefine them to generate new meanings.
- The complexity of the practices of complementarity that, as well as revealing the intertwining of oppressions that fall in a parti- cular way on indigenous women, also show the regulation of norms focused on *chachawarmi in order to* ensure a central role for women authorities and a political participation with equity.
- The focus on the problematization made by indigenous women and the iden- tification of the gender oppressions they face in the face of their customs from their own cultural contexts in which they build their lives and the contexts of structural exclusions, cyclical histories of grievances and economic marginalization.

In general terms, the findings reveal the difficult process of making effective the constitutional right of conversion to indigenous autonomy and highlight the obstacles and contradictions of the Bolivian Plurinational State, which moves between its transforming impulse and counter-transforming processes, revealing a centralist and regulatory state that fails to fulfill its pro-

32 From different perspectives, both feminisms emphasize the imperative need to go beyond the liberal discourses that privilege individual rights and conceive culture as "harmful to women"

(Okin, 1999), which makes it necessary to open debates on citizenship and cultural difference (Rosaldo 2000, Kymlicka 1996, in Sierra, 2006) without falling into their relativism.

sion of the government's own mandate. Centralist interests were strengthened by local fragmentation caused by disputes within the municipal and regional political arena. Thus, confrontational scenarios were produced, reflecting a constant intertwining of national and local dynamics and powers.

Within the framework of these processes and disputes, the Law became the language of controversy from its regulatory and emancipatory dimension (Santos, 1998). From the regulatory framework, the State hindered the autonomous process through bureaucracies, regulations and time management. From its emancipatory dimension, it opened a compass to oppose and resist the regulation imposed by the dominant order, decentralizing power and establishing areas of rupture with the hegemonic process. To understand the emancipatory dimension, it is fundamental to consider that the discursive framework of the Plurinational State is the result of a mobilization and a pact reached by various sectors that fought for historical demands.

In addition to the two dimensions of the Law, the case of Totora Marka, by visi- bilizing constitutional and legislative advances, the consequent strengthening of indigenous identities and, in discrepancy, governmental contradictions and paradoxes, clearly exemplifies the need to overcome binarisms in the analysis of the Plurinational State. That is to say that the findings of this self-determination project, summarized in this manuscript, invite us to con- template the gray area of the political crisis that Bolivia went through since October 2019.

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Between autonomy as a proactive exercise and autonomy on the defensive, transformations of meaning indigenous politicians in front of to extreme violence in Mexico

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Introduction

In this chapter I reflect on the changes in the meanings of the exercise of autonomy of indigenous peoples in Mexico between the period that we could identify as the boom of multicultural policies (1990-2006) and the period marked by the undeclared war against organized crime (2006-2018), particularly in states with a high presence of organized indigenous peoples, such as the states of Guerrero and Michoacán, which experience conditions of extreme violence and de facto criminalization of their populations. An approach to the different expressions of autonomy in these two periods shows that they have largely shifted from the exercise of autonomy as a series of actions that directly challenge the State to demand fundamental transformations, to a series of measures to protect collective life-existence in the face of dispossession and acts of extreme physical violence exercised by actors labeled as legal and illegal, including drug trafficking and extractivist companies.

What new political statements emerge from this shift, and what questions about the limits that the State sets on the rights to autonomy and self-determination emerge from the concrete actions of organized indigenous communities? This chapter responds to these questions from diverse local scenes, including in: the Nahua village of Santa María Ostula and the Purepecha community of Cherán in the State of Michoacán, the Cho'l ejido of Tila in the State of Chiapas, the Triqui people of San Juan Copala in Oaxaca, the community of San Juan Copala in the State of Oaxaca, and the community of San Juan Copala in the State of Chiapas.

nities of the Regional Coordination of Community Authorities (CRAC) in Guerrero and in the political discourses of Nahua, Yoreme, Coca, and Comca'ac women who are part of the Indigenous Council of Government (CIG), a space of self-government enacted by indigenous communities and organizations of the National Indigenous Congress (CNI). Although each point of enunciation is anchored in particular historical contexts and therefore we cannot refer to actions of close coordination between peoples or organizations, most of these experiences are inserted in complex networks that have had as one of their main sources the experiences of the Zapatista autonomous municipalities in Chiapas and their emphasis on de facto autonomy, i.e. outside the State and without limiting themselves to the existing legal frameworks. In turn, almost all the communities and organizations I describe are part or have been part of the CNI since the congress was founded in 1996. The exceptional case is that of San Juan Copala in Oaxaca. For various reasons the town remained politically distant from Zapatismo, although at the time it was greatly influenced by the experience of t h e Popular Assembly of the Peoples of Oaxaca (APPO), an assembly that emerged in June 2006 as a response to the repressive measures launched by the State against the dissident teachers, Section 22, and which was formed by more than three hundred indigenous, mestizo and popular organizations and collectives who took up the Zapatista indigenous philosophical principle of "commanding by obeying" (Poole, 2009).

In this sense, this chapter offers a critical approach to the transformations in the meanings of autonomy based on a diversity of local experiences that have been influenced by this broader indigenous political genealogy and that respond to changing historical contexts.

The chapter is divided into four sections. The first offers a brief account of the transition between the period of the rise of multicultural policies and the current conditions of extreme violence, a description necessary for the second section to investigate the initiatives of indigenous communities and organizations that take up autonomy as a right and exercise it above all as a protection and defense mechanism. The third section focuses on the changes in political discourses that emerge from various struggles for autonomy and self-determination in regions of the country shaken by these multiple forms of violence. I take the political discourses of women from the CIG as a source of analysis. I focus above all on highlighting the ways in which the exercise of self-government and the practices that they define as life politics operate in the context of their own political discourses.

trapping what members of the CIG classify as a "war against life". The fourth section focuses on describing the actions taken by the assembly of the Ch'ol indigenous ejido of Tila, in the northern part of the state of Chiapas, whose territorial dispute case was taken up by the Supreme Court of Justice in 2010, although in 2015 the ejidal assembly issued its own "sentence" as part of the exercise of self-government instead of waiting for the Court's sentence. And finally I offer concluding thoughts on what these twists and turns mean vis-à-vis the current administration of Andrés Manuel López Obrador (2018-2024). As a whole, the elements addressed in this chapter account for the flexibility of the very concept of autonomy and its adaptability in the face of changing historical processes, at the same time that its exercise has an impact on modifying the same conditions.

From the rise of multiculturalism to illegal dispossession policies

The year 1996 was a year that not only condensed great efforts undertaken for years by indigenous organizations and communities in the country demanding the recognition of their rights as peoples, but also led the collective impulse in different directions; towards the transformation of social relations with the Mexican State, towards strengthening their own organizational processes as indigenous peoples, including sheltering and supporting autonomous initiatives of the Zapatista communities, and towards new terms of dialogue and possible alliances with sympathizers of the Zapatista communities; towards strengthening their own organizational processes as indigenous peoples, including sheltering and supporting autonomous initiatives of the Zapatista communities; and towards new terms of dialogue and possible alliances with mestizo sympathizers in the country (the great void at that time was and continues to be a close dialogue with Afro-Mexican populations). At the same time, 1996 was the year in which the Zapatista Army of National Liberation (EZLN) and the federal government signed the San Andrés Sakamchén de los Pobres Accords on indigenous rights and culture, which laid the foundations for establishing a new social pact between native peoples and the Mexican State (Hernández Navarro and Vera 1998). It is also the year in which various indigenous peoples and organizations founded the CNI -a space that brings together indigenous organizations and communities throughout the country- to strengthen their resistance and decision-making struggles.[1] And it is when Tsotsil, Tseltal, Tojolabal and Ch'ol communities, support bases of the rebel

army, established their new population centers in recovered lands in the ravines of the Lacandon jungle and created their own indigenous communities.

1 Refer to the communiqué, "Declaración I del Congreso Nacional Indígena, Nunca más un México sin nosotros" (Declaration I of the National Indigenous Congress, Never again a Mexico without us). https://bit.ly/34d9ZKQ

governments and their own commissions as part of their autonomous municipalities.[2] Although academic studies usually identify 1989 -when the Mexican State adheres to Convention 169 of the International Labor Organization (ILO)- as the year that initiates the multicultural period in the country, I highlight 1996 as it brings together proposals for profound transformations from below, initiatives that in turn have been the source of numerous academic studies (Baronnet et al., 2011; Blackwell, 2012; Burguete Cal y Mayor, 2000; Cerda, 2011; Forbis, 2006; Mattiace et al., 2002; Marcos, 2011). At that moment of effervescence, few of us imagined a scenario of extreme violence fused with an acceleration of territorial dispossession enacted by legal and illegal companies, including organized crime, as is the context in which we have been living in Mexico for more than a decade and a half.

At that time, one of the main political debates consisted in defining the positioning of indigenous autonomy vis-à-vis the State. Many discussions centered on defining to what extent communities and organizations should turn their energies towards the implementation of state and federal legal frameworks or implement this right semi-autonomously from the state and outside its institutions. Although few took fixed and determinant positions, some organizations were more inclined towards the former, arguing that the State had to assume its obligations and recognize the terms of new legal frameworks governing the relationship with the peoples (Gómez, 2004; Regino Montes, 1998); Regino Montes, 1998); others leaned more towards the latter, arguing that demanding recognition by the State was a way of granting more power to the same structures that oppress and exploit communities and orga- nizations (Reyes & Kaufman, 2011; Speed, 2008).[3]

On the more extreme side of this second position are the more than 38 autonomous municipalities that founded Zapatista communities at that time.

2 In a communiqué published in December 1994, the EZLN announces the founding of 38 autonomous Zapatista municipalities divided into five regions, then known as Aguascalientes, within the territory under its influence.

3 Other main debates at that time had to do with the scale of autonomy, with some organizations, especially in the State of Oaxaca, emphasizing the communal sphere, while others, such as ANIPA, emphasized a regional or, in the case of the Zapatista communities in Chiapas, a municipal scale. It was also discussed whether autonomy should be reduced to identity claims of indigenous peoples or to a collectivity or network of collectivities sharing certain political principles vis-à-vis state institutions.

The San Andres Accords were not a success, but in an extremely diluted form in 2001, and the Mexican State was able to convert the content of the San Andres Accords into constitutional reforms. Both their autonomous governments and their political-administrative commissions - for education, agricultural production, agrarian reform, health, justice, among others - operate outside of official institutions, in rejection of social programs and any source of state funding, be it municipal, state or federal. In my book, *Política Kuxlejal, autonomía indíge- na, Estado racial e investigación descolonizante en comunidades zapatistas* (2018), I describe how the everyday forms of the exercise of autonomy in Zapatista muni- cipios led to a readjustment of relations with the State and with the *kaxlanes*, a local term used to refer to people from "outside" who are not part of the indigenous peoples. The implementation of measures outside the State forced the State to respond, but under terms that were not established either by its institutions or by the governmental authorities themselves. I describe how, in the case of the administration of justice, for example, local people, both indigenous and mestizos, had the option of going to the autonomous justice system or to the official instances, which generated a kind of competition as to who could resolve conflicts in the best way. At the same time, the justice commission watched over the rights of the people who went to the official instances, such as the Public Prosecutor's Office, in order to avoid situations of extortion or threats. This resulted in a readjustment of the practices of the official instances. It is in this sense that the exercise of autonomy in the so-called multicultural period was sustained by proactive impulses, on the offensive, to put it another way, against state institutions, even in cases, such as the Zapatista autonomous governments, in which autonomous practices were far removed from official institutions.

During this period, one of the main questions that indigenous organizations and communities asked of the State had to do with its neoliberal policies, beginning with the dramatic cutback in subsidies to the countryside that began to be implemented during the Salinas administration (1988) and culminated in 1992 with the constitutional reform to Article 27, which opened ejido and communal lands to privatization. Numerous indigenous organizations and communities argued that such privatizations would open a new cycle of territorial dispossession (Hernández Navarro, 1992). Given that the State's multicultural policies began during the same period as the privatization of the land.

neoliberal policies intensify, especially those aimed at the rural sector, many of us wondered about the possible uncomfortable and ambitious links between the two (Hernández Castillo et al., 2004; Speed, 2008; Maldonado Goti, 2011; Newdick, 2005) and whether they could even be articulated in a kind of neoliberal multicultural policies (Hale, 2004).

We in critical and engaged academia were so focused on analyzing the relationship between these two state policies that we did not pay enough attention to a third pillar of the Mexican state that was also being reformed at the same time - security policies, including the role of the public security forces, the armed forces and the justice apparatus. During the first years after the Zapatista uprising, during the Zedillo administration (1994-2000) and followed by the Fox administration (2000-2006), the three branches of government, including the security forces, the armed forces and the justice apparatus, were all undergoing a process of reform.
-the executive, legislative and judicial branches - restructured the entire security apparatus in preparation for the kind of impact that organized crime would have (Lima Malvido, 2012).[4] In a recent publication we argue that these reforms laid the groundwork for various expressions of de facto criminalization of populations in conditions of extreme poverty, including in urban centers but also in rural indigenous areas (Mora & García Leyva, 2020). Strengthening the security apparatus has had important repercussions for organized indigenous peoples and for inhabitants of indigenous regions, since this apparatus in turn requires the production of the types of criminal-subjects against which they would have to fight. The first evidence of the activation of these processes comes right at the end of the Fox administration. In May 2006, the Federal Preventive Police (PFP) launched a brutal repressive operation against indigenous Nahua ejidatarios from the town of Atenco in the State of Mexico who were waging a struggle against the construction of an international airport in their territory and who sympathize with Zapatismo. Shortly thereafter, in the State of Oaxaca, APPO organizations promoting their own independent autonomous processes suffered brutal repression by paramilitary groups known as "caravans of death" and by the army and police.

4 The reforms included, constitutional reforms to Articles 21 and 73 that regulate the coordination and linkage of all agencies involved in preventing and combating crime; the creation of new police institutions such as the Federal Preventive Police (PFP) in 1999; and five theses issued between 1996 and 2017 by the Supreme Court of Justice of the Nation

(SCJN) that allow the participation of the military in actions of a police nature.

Federal Police, including forced disappearance, killings, acts of torture and arbitrary detentions (Rénique & Poole 2008).

At the end of that year, Felipe Calderón took office and began his presidential term (2006-2012) with an undeclared war against drug trafficking, placing the armed forces and the navy as the main protagonists of the six-year term, institutions which to a large extent took control of public security tasks. The result is a dizzying increase in the homicide rate and acts of serious human rights violations, particularly in regions of extreme socio-economic marginalization, including in states with a high percentage of indigenous population such as the states of Guerrero and Michoacán. The same State priority continues with different nuances under the Peña Nieto administration (2012-2018). Although the figures run the risk of dehumanizing violence and reducing the lives of people, their families and life projects in numbers, the following data offer a panorama that points to a context of war without an established armed conflict. According to official figures, between 2006 to 2018 more than 275 000 people were murdered in Mexico,[5] more than 40 000 of people have been victims of forced disappearance and on average every day seven women have been victims of femicide.[6] It is unacceptable that, in contrast to other countries in Latin America, such as Brazil and Colombia, to date in Mexico there is no data disaggregated by indigenous, Afro-Mexican or mestizo population. We do not know how many of these victims are from indigenous peoples, but we can point out that states with high indigenous populations, such as Guerrero and Michoacán, concentrate some of the highest numbers of acts of extreme violence in the last six years. Guerrero, for example, has one of the highest homicide rates in the entire republic; while in 2007 official data recorded 766 cases, by 2018, it increases to 2367 homicides.[7] At the same time, it is the state that concentrates the highest number of cases of forced disappearance, with more than 544 cases reported between 2014 and 2018.[8]

At the same time, what was the main criticism directed at the State by the indigenous communities and organizations - neoliberal policies,

5 Consult at: https://bit.ly/3jb94P3
6 Consult at: https://bit.ly/2TarftL
7 Data from the National Institute of Statistics and Geography (INEGI), cited in Crisis Group Report (2020).
8 Consult at: https://bit.ly/3dPcG8r

particularly the privatization of communal lands - has been transformed and intensified by the acceleration of extractivist policies, promoted and supported by a series of legal reforms, including the Mining Law, the Hydrocarbons Law, and the Natural Waters Law, among others. For example, the Colectivo en Defensa de los Territorios notes that at the end of 2018 there were 322 mining concessions in Oaxaca, the majority located in indigenous regions.[9] The result has been the acceleration of new cycles of territorial dispossession that indigenous organizations feared so much a quarter of a century ago (Gómez Rivera, 2018).

Both processes-the increase in acts of extreme physical violence and territorial dispossession driven by extractivist policies-occur in the same period. However, various social actors, including human rights organizations and other civil society collectives tend to fight both phenomena as if they were separate processes, with struggles against megaprojects largely separated from the struggles of victims and their families against disappearances, murders and acts of feminicide. As we will see in the third section, it is not until 2018, during the tour of the Indigenous Council of Government through various regions of the country that indigenous authorities elaborate novel political discourses linking both expressions of violence as part of the same "war against life"; they point out that both current economic development models and illicit economies strip entire indigenous populations and the territories of which they are a part of of their life force.

In this context of dispossession and extreme violence, the exercise of the rights to autonomy and self-determination of indigenous peoples moves towards measures of defense and protection of life-existence. To account for these changes, we will now turn our attention to the struggles for autonomy in the Triqui region of Oaxaca and in Nahua communities in the State of Michoacán.

Autonomy as a defense and protection mechanism

As a disputed field, the exercise of autonomy has been the object not only of legal struggles over the content of the existing frameworks, but also by actors opposed to the concrete exercise of the right itself. There are numerous examples of repressive acts against communities and organizations that insist on exercising their rights to autonomy and self-determination, including strategies of

9 Consult at: https://bit.ly/37BQwFR

counterinsurgency designed to contain, fragment and limit the scope of the same rights. During the boom period of multicultural policies, it is worth remembering the massacre committed by the paramilitary group Red Mask against 45 Tsotsiles, most of them women and children, in the town of Acteal, in the highlands of Chiapas, a few days before Christmas in 1997 (Hernández, 1998). Also at the end of that decade, Ch'ol and Tseltal communities in the northern part of the state suffered assassinations, disappearances and forced displacements by the paramilitary group Peace and Justice, backed by the then local PRI deputy, Samuel Sánchez Sánchez (Fray Bartolomé de las Casas Human Rights Center, 1998). In this type of events, the most immediate face of acts of extreme violence is usually the local one, since many times the members of paramilitary groups come from the same local indigenous communities, which leads an important part of media representations and also a sector of academic studies to point out that violence is inter-community or promoted by local mestizo caciques who manipulate indigenous communities (Aguilar Camín, 2007), thus blurring the role and responsibility of the State. These cases remind us that the exercise of autonomy always has degrees of self-defense and protection measures in the face of multi-scale alliances of actors who want to impede or contain it. Without forgetting this trend, in this section I would like to point out that since 2006, with the incursion of new actors, mainly drug trafficking and extractive companies, these measures of self-defense and protection of life have intensified as part of the exercise of autonomy.

In Mexico, the first anchor point for this shift was a series of events that began in 2007 in the indigenous Triqui town of San Juan Copala, in the state of Oaxaca. In that year, the inhabitants of Copala issued a public communiqué declaring themselves an autonomous municipality. The statement was the first of its kind outside Zapatista territory and responded to attempts to put into practice the demands for self-government, through the exercise of uses and customs and principles of direct democracy such as commanding by obeying, which had emerged during the APPO offensive of the previous year. For the same reason, it attracts the attention and support of organizations and collectives in various places of the public arena. Natalia de Marinis, in her book, *Desplazadas por la guerra, Estado, género y violencia en la región Triqui* (2020) describes that she decided to do fieldwork for her master's degree in the village just to document the autonomy process. However, shortly thereafter, between late 2009 and late 2010, exacerbated violence broke out in the region, culminating in the massacre of more than 30 people.

nas. The survivors and all the families who had promoted the autonomy project are forced to move from the town to the state capital, Mexico City and other places. De Marinis details how the initial drive for autonomy is replaced by the development of complex networks among displaced residents of San Juan Copala that can warn of possible incursions by violent actors to prevent further killings and provide mechanisms for self-protection. Groups of displaced people, especially Triqui women, set up an encampment in the central plaza of Oaxaca to denounce the conditions of impunity and demand justice. The political aspect concentrates on survival strategies.

Contrary to the arguments that establish that violence in the Triqui region is an inter-community issue, de Marinis details the various ways in which the State plays a fundamental role. He explains how some of the factors that led to the conditions of extreme violence in San Juan Copala had to do with the rearrangement of the State based on the PRI's cacique ties and the articulation of local interests with other state and even federal interests. The incursion of new actors in a web of political-economic interests creates extremely adverse conditions for the development of autonomous initiatives. This becomes even more complicated in other states, particularly Michoacán and Guerrero, as the rearrangements of political actors include ties and collusion with companies and organizations that profit in legal and illegal ways. In both states it is evident how the introduction of organized crime and the acceleration of extractivist projects add further complexity to this web.

I take as an example the recovery in 2009 of ancestral territory through the exercise of de facto autonomy undertaken by the Nahua village of Santa María Ostula, in the State of Michoacán. Like San Juan Copala, when Ostula declares that it is going to reverse the dispossession of its lands and establish its own system of government, it receives the support of many organizations and collectives, both indigenous and mestizo. In his case, this is mainly through the networks of indigenous organizations that make up the CNI. In a regional meeting of the Central Pacific zone of the Congress, held on June 14, 2009, other Nahua communities, and Purépecha, Wixaritari, Rarámuri, Hñahñü, Binnizá, Coca, Tseltal and Na'saavi peoples supported Ostula's decision and argued in the *Manifesto for the Right to Self-Defense* that as peoples:

> We have exhausted all legal and juridical avenues for the defense and recognition of our lands and territories and have only received refusals and moratoriums,

> threats and repression by the State, as in the case of this community of Santa María Ostula. The path ahead is to continue exercising our historic right to autonomy and self-determination. We insist that the land, which is our mother, is not for sale: it is defended with life.[10]

The initial struggle is against the local mestizo caciques of La Pacita who, decades ago, appropriated the lands recognized in the Ostula land titles.[11] In 2009, the Nahua settlers managed to recover almost all of their ancestral lands, which is equivalent to more than 13,000 hectares extending from the Pacific coastal zone to the highlands (Hernández Navarro, 2009). In an event held in Ostula to commemorate the anniversary of the recovery, a community member recalls that day:

> I arrived in a caravan to enter here. Arriving at El Zalate there is an entrance where a caravan entered, we managed to get in a little bit. A black car with several people with high caliber weapons came across us. They called our attention, 'What do you want, you stinking, stinking, stinky, cracked-legged Indians? Go back to where you came from or we'll beat the shit out of you'. I was the co-pilot... They were already driving away. I heard gunshots in front of me. I realized that my friend was already dead. He was hit by a bullet. It was a very sad moment. The disappeared and the dead... they gave their lives for the mothers, the children, the land we are walking on.[12]

Once established in the new town, one of their first actions was to organize a communal guard and community police to guard the communal lands, both under the appointment of the community assembly. According to studies on autonomous systems in the region, this General Government Assembly in turn appoints and oversees other communal positions including agrarian, civil and religious authorities. The decision to establish its community police as part of the exercise of the right to autonomy resonates with those of other indigenous communities and organizations, including the Purepecha community of Cherán, also in Michoacán, a town that in 2011 expelled organized crime and members of political parties colluding with them and managed to maintain its autonomy.

10 See "Manifiesto de Ostula", June 17, 2009: https://bit.ly/34bi5DE

11 The primordial titles are documents written during the XVII and XVIII centuries, often by the indigenous peoples themselves, which generally describe the founding of these peoples. The primordial titles play a relevant role in arguing for the fulfillment of the territorial rights of indigenous peoples.

12 The audios of the event, Xayakalan, 10 years weaving community resistance, can be consulted at: https://bit.ly/34g4fzT

The community members are not allowed to leave their territory thanks to a type of self-situation that they establish through barricades and surveillance mechanisms around bonfires placed in strategic corners of the village (Aragón, 2019). It also finds echoes with longer-term au- tonomic processes, such as the Regional Coordination of Indigenous Authorities (CRAC) and its Community Police (PC), an organization made up of Me 'phaa, Na savi, Nahua and mestizo indigenous communities of the Montaña de Gue- rrero that emerged in 1995 as a way to fight violence in the region and impart its own justice system (Sierra, 2013).

Although the CRAC was originally organized to combat violence perpetrated by local caciques, partisan interests and other actors linked to local and state interests, in more recent years its self-protection and justice delivery tasks have had to be expanded to include the actions of local drug traffickers, which undoubtedly increases the risks and reprisals against them. In addition, between 2013 and 2014, when mainly mestizo "self-defense" groups began to take charge of self-surveillance tasks in different states of the republic, Guerrero state officials acted with measures that criminalized the CRAC's justice functions. Despite the fact that their collective rights to self-determination as indigenous peoples are backed by Law 701 of the State of Guerrero, the State launches operations to detain members of the CRAC, including almost a dozen of its leaders who are accused of crimes such as kidnapping and carrying weapons (Ocampo, 2013).

In the case of Ostula, its declaration of autonomy receives an immediate repressive response, beginning on the very day of recovery, as the testimony above indicates. In a short time, the actors involved in the acts of extreme violence become more complex. According to a study by Salvador Maldonado, due to its location on the coast, not only local interests converge around Ostula, but also economic development interests, including those of mining and tourism companies. In that sense, "The territorial deployment of security by these groups is reflected in disputes over spatial control for mining production, logging, animal trafficking, vegetation, etc." (2017). In turn, since 2013, organized crime has used the region to move its merchandise, especially to the main port of the state, Lázaro Cárdenas, located just over 100 km away.

Villagers repeatedly denounce that these various actors are supported and protected by the armed forces. In 2010, a year after having recovered the original lands of their territory, twelve community members had been killed and four "levantados," a colloquial term used to refer to disappeared persons. In each of these cases the villagers point to heavily armed local mestizo groups supported by the armed forces as responsible (Camacho, 2010). In response, the Ostula community members set up checkpoints to control the presence of these actors, guard posts that in turn are the target of aggressions and violent surveillance mechanisms by different state security institutions.[13]

The complexity of actors who actively participate or who passively make territorial dispossession, assassinations, and disappearances permissible is repeated in other regions of the country, each with its own nuances and historical fabric. During the early years of the Zapatista autonomous municipalities in the late 1990s, aspects of autonomy linked to self-protection strategies were mainly against the so-called white guards, the private guards of the local mestizo elite of landowning families, often in collusion with political parties or political authorities. However, since 2006, the diversification of actors actively promoting territorial dispossession and sowing conditions of terror in various regions has intensified the sense of autonomy as mechanisms of defense, safeguarding and protection of the socio-natural life linked to a territory.

The Native American intellectual from the United States, Patrick Wolfe, argues that settler states, i.e., nation-states that emerge from the conquest of indigenous peoples and the enslavement of people from the African continent and that continue to be sustained by colonial structures, maintain an eliminative principle as their guiding principle (2006). As a whole, both calculated and targeted expressions, including acts of genocide and territorial dispossession, as well as passive and apparently non-violent ones, including integration policies based on the ideologies of mestizaje, activate this eliminatory principle directed towards indigenous peoples. Depending on historical conditions, some elements take on a more prominent role than others. In this sense, we could say that, during the multicultural period, the eliminationist principle was mainly expressed as follows

13 Already by 2016, the forced disappearance and murder of more than 34 men, children and women were added. Refer to (Redacción, 2019).

in adding recognition policies to state policies without modifying the privileged role of the mestizo population and without thoroughly dismantling the ideologies of mestizaje or the dominant neoliberal development model that sustains it. However, in a context marked by the active participation of organized crime and extractivist companies and by the militarization of daily life, the balance is tipping towards actively eliminatory actions. The response of many organizations and communities, as we saw exemplified in the case of Ostula, has been to protect themselves, which in turn modifies the meanings given to the very right to autonomy. Based on this shift in meanings, what political discourses do indigenous authorities elaborate and how do they name the current violations? The answers to these questions are the focus of the following section.

Against the permanence of colonial structures in the present day

> They do not care about polluting the water that runs under the earth and becomes life for our people. They sow death with the gas vents, the release of vented gas, the toxic spills from damaged pipelines. They pollute the water of our communities in rivers and springs. They plunder and destroy the land, sowing death, destruction, exploitation, contempt and repression against us. The capitalists would have us believe that our territory is the thousands of oil wells, dozens of mining concessions, the murdered women, the disappeared.... They sow fear, they disappear our people, and the violence of drug trafficking is less and less distinguishable from what the mining companies do, from those who extract hydrocarbons through fracking, from those who trade and traffic with the migrant brothers and sisters who pass through these lands, from those who kill women just for being women, and from those who misgovern for the foreman of money. (National Indigenous Congress, 2017)

María de Jesús Patricio, popularly known as Marichuy, an indigenous Nahua woman, traditional doctor and member of the CNI, gives this speech in Toto- nacapan, Veracruz, during a tour of various parts of the Mexican Republic aimed at gathering the signatures necessary to secure her registration as an independent candidate for the 2018 presidential elections.[14] Between late 2017 and early 2018, Marichuy, along with other members of the Indigenous Council of Government (CIG) - a council made up of representatives, a woman and a man, and a man and a woman who are members of the CIG - a council made up of representatives, a woman and a man who are members of the CIG - a council made up of representatives, a woman and a man who are members of the CIG.

14 The guidelines of the National Electoral Institute establish that an independent candidate can

register by gathering signatures of 1% of the registered voters in at least 17 states, which is equivalent to almost 900,000 signatures. Marichuy managed to gather almost 300,000 signatures.

The CNI-as a member of the CNI- visited various cities, towns and communities throughout the territory to listen to the needs and life conditions of local populations and to learn about their forms of struggle. In each place these words were taken up and returned in the form of speeches that were elaborated as the dialogues with various communities and collectives progressed. In this sense, we can understand the journey of the CIG as one that fulfills two purposes - that of obtaining Marichuy's registration as an independent candidate (something that was not achieved) and as an exercise that I define as one of mutual listening, that is to say, a coming and going of exchanges that together elaborate their own narratives from below in the face of the current conditions of violence. I begin this section with Marichuy's words because they reflect the type of political statements and analyses that emerge from this collective exercise, including the interpretation of organizational experiences in recent years in which the aspiration for autonomy and self-determination figure centrally.

In order to listen carefully to the elaboration of these narratives and to account for their political implications, I undertook the task of reviewing the transcripts and audios of all the political acts of the CIG's tour between 2017 and 2018 available on the CNI's virtual page, including that of the town of Totonacapan, and the life stories of the CIG members that form part of the audio visual project, *Flowers in the Desert*, by the journalistic collective, *Desinformémonos*, under the coordination of the writer Gloria Muñoz. As for the discourse with which I begin this section, I would like to start by pointing out that although Marichuy refers to the specific conditions of this region in Veracruz, she offers a mapping of the type of interrelated violence in various indigenous territories in the country and, therefore, is a relevant entry point to understand how she, along with other members of the CIG, refer to expressions of structural violence - territorial dispossession, racism, environmental destruction - and physical violence.
-disappearances, assassinations, feminicide- as part of what they call a "war against life". These are two expressions of dispossession that act in an interrelated manner against indigenous territories and against the bodies of the people who are part of those territories, at the same time that the violence expands to mestizo regions of the country.

Although in her discourse we observe that Marichuy emphasizes conditions of capitalist exploitation, she defines these relations as part of the forced occupation of indigenous territories, along with the systematic devaluation of lives.

human and non-human. As a whole, they are tangible expressions of attempts to eliminate peoples as they lead these populations to the brink of socio-biological death. In turn, these expressions of territorial occupation are repeated and intensified through multiple acts of extreme violence within a narco-state economy, such as cases of femicide, assassinations, and forced disappearances. Because of the way in which Marichuy intertwines the interests of capital with the permanence of colonial forces, including the patriarchal and racist structures that prevail in society, it would be erroneous to think that she is referring exclusively to class exploitation.

This "war against life" is also described and developed by other women of the CIG when they describe their experiences and the struggle of their peoples. As we will see below, the elements they highlight and repeat in their testimonies include the ways in which their peoples' territories are subject to threats of new cycles of territorial dispossession by actors far removed from communal dynamics. They also point to the multiple effects that dispossession triggers, including labor exploitation, forced displacement, murder, political repression, and systematic acts that treat people as if they were strangers or foreigners in their own lands. The combination weakens the collective resilience to survive as peoples and engenders conditions of slow death through acts of extreme violence.

In an interview conducted by a Spanish radio station, Bettina Cruz, of the Binnizá people, originally from the Isthmus of Tehuantepec, and leader of the *Asam- blea de Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio* (APIITDTT), refers to the co-investment of Spanish transnational companies with the Mexican State for the development of wind projects in the Isthmus as a "new colonization" (Programa Ellos y nosotros, April 26, 2018). To elaborate on why she defines these projects as part of more recent colonial expressions, Bettina explains that these were imposed by the Mexican State under the argument that the energy source is a common good that reflects the "interests of the nation." She criticizes that in essence the government maintains that "the nation" does not include the indigenous peoples or their territories impacted by these types of projects; she denounces that not even the affected peoples were consulted and that the benefits of the electricity generated hardly reach these communities. However, the impacts that the Binnizá inhabitants of the Isthmus do experience are alterations to the landscape and agricultural activities. In addition to hindering the

flora growth, the vibrations of the wind farms drive animals away, and local people detect changes in the water and soil nutrients. In turn, wind projects do not represent the first mega development project in the region, but are part of a long list that since the conquest has included salt, gold, iron and silver mines (Desinformemonos 2018a).

Meanwhile, in the north of the country, in the state of Sonora, Myrna Valencia, of the Yoreme people, refers to the destruction of the river that crosses her territory, the Mayo River, caused by agro-industry that transforms "the water that is life into death", since both the river and subway water sources are severely contaminated. While describing the impacts this has on her territory, Myr- na relates the "death" project of private interests to the narco-economy of the region, which in recent years has had a particular impact on the youth of her community. She emphasizes this point through descriptions of young people in extremely disturbed states due to drug use. This type of impact exacerbated by the combination of extractivist projects and narco-economies is also described by CIG comca'ac member Gabriela Molina Moreno, from the Desemboque de los Seris community, also in Sonora, who details how her town has been threatened by both mining companies and organized crime. The presence of drug trafficking in turn justifies the Navy's semi-permanent presence on Tiburón Island, a sacred island for the Comca'ac because it is considered the cradle of origin of their people. This third actor appears as part of the multidimensional forced occupation given that "instead of protecting our territory, it defends organized crime" (Desinforménonos, 2018b.).

In their speeches and interviews, other members of the CIG point out that the combination of these actions activates a "war against life", a war that, although its point of origin is the socio-biological erasure of indigenous and Afro-descendant peoples, also transforms the vital energy of other sectors of society into waste. The expansion and diffusion of this eliminationist principle does not mean that it is no longer concentrated in the indigenous regions of the country. The high presence of security forces in indigenous territories, the occupation of their territories by actors alien to collective interests, the imposition of forms of government and political participation alien to their own historical trajectories, together with the extraction of the vital force of people to sustain the privileges of other sectors of society - are the historical colonial substratum on which the current extreme and structural violence takes shape. The turn towards conditions of extreme violence that

The attacks on indigenous and Afro-descendant communities, together with policies of territorial dispossession and social geographies, are not exclusive to the Mexican context. It is part of the trends of the regression of multicultural policies and the reactivation of explicit racism and territorial dispossession that various studies document throughout the continent (Hooker, 2020). In this sense, what we are witnessing in Mexico represents an intensification of these assemblages that begin with what the Mixe intellectual Yasnáya Elena Aguilar Gil refers to as the illegitimate pact of the Mexican State. Aguilar argues that the origin of the Mexican nation-state is illegitimate because the native peoples were never asked whether or not they wanted to be part of Mexico (Aguilar Gil, 2020) and therefore, the social pact from its inception is established excluding the native peoples from it.

If the struggles for the exercise of autonomy and self-determination generate this type of political discourse, what political horizons do they point to? I return to the event in Totonacapan, Veracruz to point out that the proposal for self-government continues to figure centrally. Marichuy insists that in the face of territorial and life dispossessions that sow death:

> Our territories are indeed the original languages, the ancestral cultures, our resistances, the community organization that invites us not to sell ourselves, not to surrender or give up, not to forget what we inherited from our ancestors to protect, that invites us to organize and govern ourselves by exercising what we collectively decide. (National Indigenous Congress, 2017).

Marichuy recovers as a central political impulse the exercise of self-ownership. She and other members of the CIG point out that such actions are developed and cultivated by placing at their center the activities of life care that ensure the material and socio-spiritual conditions for the reproduction of social life as peoples. It is noteworthy that several of the women members of the CIG are traditional midwives or doctors, or are part of matrilineal lineages of healers. Others participate in their communities by cultivating medicinal plants and others are teachers. Marichuy is a traditional healer. Ga- briela Molina studied at culinary school in Hermosillo, the capital of Sonora, where she researched the traditional ingredients that generations of villagers have used to strengthen and heal the body from illnesses, including diabetes, which has increased rapidly in her region. Osbelia, a Nahua woman from the town of Tepoztlán, in the state of Morelos, was educated in a normal school during the 1950s, when access to education was limited.

education for indigenous women was rare. Myrna Valencia, also trained as a teacher and serves as a high school teacher in her village. And Lucero Alicia, a Kumiai from the State of Baja California Sur, followed the legacy of her mother and other women in her village by being not only a teacher but also a spiritual guide and healer.

During her testimony for the publication, *Flores en el desierto,* Myrna notes that these professions influence how women members of the CIG assume positions of authority in their communities and give meaning to exercises of self-governance and autonomy because they understand that their duties are part of everyday life, rather than that leadership positions are separate from everyday life. In that sense, he describes the authority figure as "being guardians of life, [whose role consists of] taking care of life and defending the people collectively" (Desinformémonos, 2018c). The daily practices through which they exercise self-determination foster the conditions of well-being of the collective as part of socio-environmental relations.

Tila before the Supreme Court: against colonial legacies and for ethno-racial justice

So far I have referred to changes in the meanings of autonomy that emerge in response to the intensification of multiple expressions of dispossession enacted by various legal actors. I also stopped to listen to the type of political discourses that emanate from these multiple experiences, specifically how women members of the CIG interpret the experiences of their peoples, elaborate narratives based on dialogues with inhabitants of diverse regions of the country and propose political horizons from the exercise of their own governments. An implicit aspect of the examples I have highlighted is the emphasis on the exercise of de facto autonomies, outside of formal legal recognition, and which in turn generate their own meanings of law based on their own institutions. In this third section, I am interested in focusing explicitly on this element in order to reflect on how certain exercises of de facto autonomy question the limits that state institutions establish on it.

I focus on the agrarian dispute of the Ch ól indigenous ejido of Tila, located in the northern part of the State of Chiapas, whose case reached the Supreme Court of the Nation in 2010. The full Court discusses the case in 2013, but withdraws due to a lack of

clarity in the project presented. It is not until 2018 that the ministers issue a lukewarm ruling, although, as we will see below, the ejido assembly in essence resolves its own dispute three years earlier, at the end of 2015. I analyze this particular case because the Court requested non-legal expertise to analyze the case, including the socio-cultural expertise that I prepared, together with Rodrigo Gutiérrez, a researcher at the Institute for Legal Research of the National Autonomous University of Mexico (UNAM).

I describe the case and then detail the role of each type of actor involved. The ejido of Tila, whose population is mostly indigenous Ch'ol and Tseltal, is located in the northern part of the State of Chiapas, in the municipality that shares the same name. Within the Tila ejido is the town of Tila, an urban center of great importance for the region because it is the political-administrative center that also concentrates public services and a religious center where the figure of the Lord of Tila is located, a black Christ venerated by indigenous people and peasants throughout southeastern Mexico. The Tila ejido, made up of more than 5400 hectares, was the result of a presidential decree in 1934 and was established on land that had been appropriated by Ladino families and German foreigners until then. Through the interviews we conducted for the sociocultural survey, we detected that the ejido was for the local Ch'ol and Tseltal population the regime available in the post-revolutionary period to recover part of their territory. Therefore, it symbolizes a triumph against the local *kaxlan* elite*, a* local term used to refer to non-indigenous outsiders, and against historical cycles of dispossession and repression (Mora, 2020).

The agrarian dispute dates back more than half a century, beginning in 1971, when the first attempt was made to expropriate 130 hectares in the center of the ejido, including more than half of the town of Tila. This first attempt was actually the result of external circumstances. Years earlier, an epidemic had forced the municipal seat, then located in the nearby town of Petalcingo, to move temporarily to the town of Tila. However, in 1971 a mestizo lawyer aligned with local public officials attempts to make the change of political-administrative center permanent. He altered the ejido maps to justify that these 130 hectares never belonged to the ejido lands. The ejido authorities file an injunction against this alteration. While waiting for the resolution, a parallel legal battle begins because the Chiapas legislature approves a decree to separate the 130 hectares from the ejido lands.

ejido lands. The ejidatarios responded with another injunction, which was granted in 2009. However, at that time the judge declared the physical impossibility of land restitution and proposed an alternative implementation of the sentence, a substitute compliance, that is, compliance with the sentence would have to be executed through viable alternative options, in this case through a financial compensation or through the granting of equivalent lands. Finally, in 2010, the case was taken up by the Supreme Court.

In the period between 2010 and 2018, when the Court issued the sentence, there was a rearrangement of the various actors that form part of the judicial field, including anthropologists who are dedicated to carrying out expert opinions. To analyze the case of the Tila ejido, the Supreme Court requested a total of four expert opinions, including two sociocultural ones. It is one of the few occasions that the highest court of justice in the country accepts to review non-legal expert knowledge for a case. At the same time, it is important to recognize that when the SCJN takes the Tila case, it joins a list of the first cases on the collective rights of indigenous peoples to reach the highest court in the country. Several were resolved favorably for the protection and enforceability of rights, including in 2013 the case of the Yaqui tribe fighting against an aqueduct in Sonora; the recognition of the rights of political participation as Purepecha of the community of Cherán in 2014; and the recognition of collective rights against extractivist policies of the Me'phaa people of San Miguel el Progreso in Guerrero in 2016. In this sense, it would seem that, within the judicial field, the case was being presented in a quite favorable context, despite the fact that the context of violence and dispossession, as we have seen in the previous sections, was very adverse.

In order to recognize and reflect on this new scenario, the forum "Identity, Territory and Jurisdiction: El papel el peritaje antropológico para la exigibilidad de los derechos colectivos de los pueblos indí- genas" at the Instituto Tecnológico Autónomo de México (ITAM). The speakers included ministers of the Court, judges from other courts of justice, particularly those who had issued rulings in favor of the collective rights of indigenous peoples, and anthropologists who have participated in emblematic cases as cultural experts. In general, the interventions converged around the perspective that the judicial apparatus was entering a stage that offered new opportunities to strengthen claims for the collective rights of indigenous peoples.

The use of anthropological expertise was used as a basis for the discussion. However, some members of the audience noted the absence of members of the same communities who are also political actors in the struggles being fought in the judicial arena. One of the most critical voices was Magdalena Gómez, a lawyer close to Zapatismo and advisor to many processes of struggle for the collective rights of the peoples. During her intervention she pointed out a profound contradiction, "Why in legal cases is the anthropologist the actor invited to interpret indigenous cultural practices instead of the authorities of their own governments, who are the subjects of the rights to autonomy and self-determination? With his words Gómez points out a fundamental limit to the exercise of the right to autonomy in the Mexican context - indigenous authorities can resolve their internal affairs, but they cannot be interlocutors of state institutions (Mora, 2020). This is a reflection of the juridical locks placed on the exercise of the right to indigenous autonomy in the country that contrasts with other countries such as Colombia, Canada and Australia in which oral testimonies and written documentation presented by representatives of indigenous peoples or First Nations are an integral part of judicial processes.

Although several anthropologists, and I include myself in the list, share the questions raised by Gómez, it was a sector of the ejidatarios of the Tila ejido who made this criticism evident through political actions taken at the end of 2015. In December of that year, a sector of ejidatarios convened an assembly in which they agreed to recover the 130 hectares under dispute. They declared that after more than half a century of struggle for justice and against the dispossession of their communal lands, the indigenous ejidal assembly had made the decision to destroy everything that symbolizes "the origins of all injustices and discriminations," the building of the municipal offices of Tila. They argue that their decision is based on the fact that "their ancestors founded Tila before the colony" (Comunicado Ejido Tila December 2015) and that the multiple attempts to dispossess them of their lands are part of the continuity of that colonization reflected in more recent years in development projects promoted by a group of *Kaxlanes,* aligned with some Ch'ol ejidatarios. They determined that they were the guilty parties and therefore had to be removed as authorities and established the indigenous ejidal authorities as the only legitimate local government in the Tila ejido. Although in formal terms the case remained on the docket awaiting a ruling, the verdict for the state implied a kind of de facto withdrawal of the Supreme Court.

In order to execute their self-sentence and ensure that the necessary conditions existed to exercise autonomy and self-determination, they demolished the physical facilities of the town hall. The municipal seat was effectively forced to temporarily relocate, although two years later, through a decree, the local congress authorized the municipal government to establish itself permanently in the town of El Limar (Chiapas, 2017). In turn, almost all the mestizo and Ch'ol families that had positioned themselves in favor of the municipal government left the ejido to settle in other towns.[15] The result was a shift in the balance of local power in favor of the sector of Ch'ol ejidatarios promoting autonomy, which in previous decades had favored the political-economic privileges of a local mestizo elite supported by a sector of Ch'ol and Tseltal settlers.

This shift also had important repercussions in the judicial sphere, as the ejidatatorio decision is perhaps the first time that a case before the Supreme Court is in essence resolved in a para-state court. All the actors involved in the judicial sphere were displaced from our assigned roles (Mora, 2020), starting with the ministers of the Court. They were in an extremely delicate position since an eventual ruling in favor of land res- titution implied validating what in essence had already been resolved by the ejidatarios. On the other hand, a ruling establishing that the 130 hectares must remain separate from the ejido was no longer feasible. At this juncture, in 2018 the Court issues an extremely lukewarm ruling in which it returns the case to the lower courts and gives them the power to decide how to resolve it. For its part, the human rights organization handling the case, the Human Rights Center, Miguel Agustín Pro Juárez, instead of continuing to develop the legal strategy based on the collective rights of the indigenous peoples, had to readjust its role and dedicate itself to issuing complaints about the aggressions and threats suffered by the ejidatarios subsequent to the execution of their sentence. Finally, the actions of the ejidatarios themselves made our role as experts irrelevant, including our expert report detailing the construction of a sense of territory for the Ch'ol indigenous people settled in Tila.

What I want to emphasize is that instead of delegating to the judicial apparatus of the State the power to resolve the matter, the ejidatarios asserted that their assembly, which is governed by usos y costumbres, is the legitimate sphere to exercise their right to the

15 Refer to the communiqués published by the ejidatarios at: https://bit.ly/2T8bgwe

self-determination. Through these actions, this sector of Tila's ejidatarios is located within an indigenous political genealogy that affirms the exercise of autonomy outside of the State. At the same time, the ejidatarios responded directly to the contradiction pointed out by Magdalena Gómez at the ITAM forum in 2015. Instead of human rights organizations or anthropologists being the intermediaries advocating for their rights to autonomy and self-determination, the ejidatarios asserted that the exercise of their rights includes being participants in the judicial arena and that they can define the terms of their participation. In this sense, they questioned the mechanisms through which the judicial apparatus recognizes and restricts their right to autonomy and self-determination and opened a new vein of possibilities for its exercise.

Final thoughts on Q4

In this chapter I have reflected on how the exercise of the right to autonomy tends to prioritize mechanisms of self-protection and collective protection in the face of the intensification of the eliminationist principles of the Mexican State in the present. My focus has been mainly the period of the Calderón and Peña Nieto administrations. In 2018, Andrés Manuel López Obrador, of the center-left Morena party, takes office. Initially it would seem that the change of federal government could set the stage for the pendulum to swing back towards establishing new relationships between indigenous peoples and the State, placing at its center the strengthening of the collective rights of indigenous peoples, while at the same time incorporating the recognition of rights for Afro-Mexican populations in Article 2 of the constitution in 2019. During the first year of the new administration, the recently created National Institute of Indigenous Peoples (INPI) carried out hundreds of consultation forums in various indigenous regions of the republic in order to present a legislative proposal for constitutional reform that would deepen the rights to self-determination and self-determination of indigenous peoples. And the executive pronounced itself against security policies based on the militarization of public security tasks and in favor of integral "pacification" strategies.

As for the first initiative, this was quickly diluted by the central role that the executive has given to mega development projects and the priority of continuing with extractivist policies. As an example of this, during the COVID-19 pandemic, mining was considered from the 1st of October to the end of October.

The Mayan Train will be an essential activity by June 2020, as well as the works for the infrastructure and tourism project, the Mayan Train. This mega-development project is the main controversial project of the six-year term, as the train would pass through indigenous territories in four states of the republic, archeological zones and ecological reserves. In spite of strong mobilizations against it and despite the fact that international bodies such as the UN declared that the "consultations" carried out did not comply with international standards on the matter, the executive insists on continuing with the project. As for the second, the executive resumes the policies of militarization of public security tasks through a decree that creates the National Guard, a security corps of more than 70,000 elements made up of ex-military and ex-policemen responsible for carrying out public security functions. As for the rates of extreme violence, instead of decreasing, they have increased significantly. According to a report published by the non-governmental organization, *Frontline Defenders,* Mexico is the second most dangerous country in the world for human rights defenders after Colombia. Of the 321 murders of social leaders committed in 2018, 54% were concentrated in these two countries, with 126 defenders reported in Colombia and 48 social leaders in Mexico (Front Line Defendors, 2019). Everything indicates that, despite a change of federal administration, these multiple violences continue to frame the field of dispute in which they give meaning to autonomy.

This scenario leads us to reflect critically on the tensions that arise when the change of federal administration does not substantially modify the conditions of extreme and structural violence, which forces indigenous communities and organizations to continue emphasizing autonomy as a measure of self-protection and care for life. One of the main tensions is between the priorities of caring for life-existence emphasized by the women of the CIG and the initiatives to create protection mechanisms, such as barricades in their villages or the formation of community police forces that seek to defend their territories from dispossession promoted by both organized crime and extractivist companies. A main challenge is to maintain these various walls of defense, sometimes with the use of weapons, without neglecting or even strengthening the activities of collective care. A second challenge is reflected in the type of political debates that the ejidatarios of Tila had in their assembly before deciding to issue their own sentence:
how much to undertake struggles bounded by the restrictions established by the regulatory frameworks in force and how much to emphasize the exercise of their rights to the

What are the implications of prioritizing one of these two axes over the other in the main struggles that are taking place in this six-year term, for example, against the Mayan Train? And, finally, how to weave political proposals and initiatives between different exercises of autonomy in order to encourage other types of conditions that would not only create mechanisms for protection and safeguarding, but also for social transformation? The latter includes prioritizing the care of the life-existence of the peoples as a central nucleus through which new relationships between indigenous peoples, mestizo and Afro-Mexican populations can emerge in order to fissure the colonial structures on which the Mexican State continues to be based.

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