



Guatemala's Indigenous Women in Resistance: On the Frontline of the Community's Struggle to Defend Mother Earth and her Natural Assets

María Giovanna Teijido and Wiebke Schramm

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PRESENTATION

Peace Brigades International (PBI) is a non-governmental organization that promotes conflict resolution and the defense of human rights by non-violent means. PBI provides protective accompaniment and acts as an international observer to protect the space in which human rights defenders work. These human rights defenders suffer repression for the work they carry out to promote social justice. PBI seeks to deter violence with the presence of international volunteers, advocacy and the dissemination of first-hand information to a large support network in Guatemala and abroad. PBI began working in Guatemala in 1983 by dispatching a team of volunteers in response to petitions for international accompaniment from civil society groups and newly formed human rights organizations. In accordance with its mandate, PBI's mission from the start was to help civil society organizations maintain the spaces they had struggled to open in defense of human rights. At the same time, we kept the international community informed about the sociopolitical situation in Guatemala. Adhering to strict principles of non-violence, non-interference and non-partisanship, PBI was one of the first international organizations in the country, bringing a message of peace. Up until the late 1990s, PBI provided protective accompaniment to human rights organizations, unions, indigenous and campesino as well as religious groups, political refugees and internally displaced persons.

Then, in 1999, three years after the signing of the Peace Accords (December 1996), an extensive internal and external evaluation resulted in a decision to close the project. The Peace Accords led to an opening up of the political space in which civil society organizations and their members were able to act. However, a special PBI committee continued to monitor the situation in the country.

In 2000, PBI began receiving new petitions for international accompaniment from Guatemalan civil society organizations. Consequently, the organization began conducting research in Guatemala and learned that there had been setbacks, and in some cases the work space of human rights defenders appeared to be closing. In April 2002, PBI decided to coordinate in Guatemala with other international organizations that were providing political accompaniment in the country. A year later, the PBI-Guatemala project was reopened. This time the project would focus on accompaniment in three areas of priority: the struggle against impunity, the right to land, and the effects of globalization on human rights.

In this respect, PBI accompanies civil society organizations committed to the defense of natural resources and to countering threats to the environment, the fulfillment of the collective rights of indigenous peoples, and the protection of the population's health. These groups and their members face threats and attacks due to their work. The accompaniment of these organizations and the social processes they promote inspired the publication in 2006 of another monograph by PBI, "Metal Mining and Human Rights in Guatemala." Now, four years later, PBI's intention is to expand on this and deal with the subject of the defense of natural resources, taking into account the particular perspective, experiences and knowledge of indigenous Guatemalan women.

Today, Guatemala's indigenous peoples continue to demand the defense of natural resources, and this has become a priority of the work within and between their communities, and involves many civil society organizations. In this report, we have attempted to include a focus on gender and diversity in order to draw attention to the activities and voices of those who have limited opportunities to express their point of view. Therefore, we decided to highlight the reality of indigenous women of different ethnic origins in three specific areas of the country who face different types of threats and other consequences for their work in opposition to the installation and development of so-called mega-projects in their communities. We attempted to reflect their experiences in this document, as well as the complexity and extent of the social consequences from the exploration and exploitation of the natural resources that are essential to Guatemala's indigenous peoples. We hope to help draw attention to their work in defense of Mother Earth, the role that indigenous women play in this process, and the threats they face as a result.

METHODOLOGY AND BASIC CONCEPTS

OBJECTIVES AND METHODOLOGY

The objective of this study is to examine the social process at work in the defense of natural resources from the perspective of the indigenous women involved in it. Given the country's broad cultural diversity and the time limits for completing this report, we assumed right from the start that it would be impossible to cover the entire territory of Guatemala. Therefore, we focused on three case studies that include the analyses of indigenous women involved in the defense of natural resources with civil society groups and organizations in specific places and at specific times. The interviews were conducted and the draft report written between April and July 2009. It was revised in the second half of 2009. Editing and publication took place in the first half of 2010.

For a more global vision of the topic, we met with Guatemalan civil society organizations and gathered the necessary information from the corresponding state institutions, making use of the Information Access Law passed in early 2009. We contacted and requested information from the national electric company (INDE), the Ministry of Energy and Mines (MEM) and the Ministry of the Environment and Natural Resources. Although we received a written response within the 10-day period established by the new law, the information provided by INDE regarding the Xalalá hydroelectric plant, for example, was not the specific information we requested. We followed up on our contact with the MEM to clarify the information initially provided in response to our request.

In Annex 1, we provide a detailed explanation of the activities carried out and the individuals and institutions interviewed for this report.

CLARIFICATION OF TERMS

We identify some basic terms below that we refer to throughout the document and which we consider important enough to define in advance:

Gender relations

The term “sex” refers to the man and the woman in physical and biological terms. We use “gender” in social and cultural terms in accordance with the reality of each case, and these terms can change as such. The purpose of this concept is to shed light on the social relationships between men and women, which are characterized by an imbalance of power and by the determination of roles considered feminine or masculine in society. The purpose is also to look beyond this reality and discover relationships of equality between women and men in all aspects of life – socio-economic, political and cultural.

Mega-project

“Mega-project” is defined as a large project by a corporation to exploit natural resources (mining, hydroelectric power, oil drilling, cement production, agro-business) with an impact on both the environment as well as on the lives and cultures of the communities and individuals located in the affected area. Frequently, these are transnational corporations operating in the country with foreign capital, and production is aimed at exportation, while profits are retained.

Cosmovision

We define “cosmovision” as the overall set of opinions and beliefs that make up the image or general concept of the world predominant in an individual, era or culture, with which its own nature and all that exists is interpreted. A cosmovision defines common notions that apply to all areas of life, from politics, the economy and science, to religion, morality and philosophy.

Natural Assets versus Natural Resources

“Natural resources” are material assets and services provided by nature that are fundamental for human societies as they contribute directly to their welfare and development (raw materials, minerals, food) or even indirectly (ecological services).

In accordance with the cosmovision of the indigenous peoples, the use of the term “natural assets” has been proposed, since the indigenous people consider these elements sacred and not just renewable resources for economic exploitation. From this perspective, a value is given to these assets which transcends the economic utility drawn from the earth, which the indigenous peoples call Mother Earth

Territorialism

Under the cosmogonic concept, the identity of indigenous peoples is linked to a specific territory and ecological system, i.e. a specific manifestation of Mother Earth. Beyond mere possession, this territorialism means pertaining to a specific environment, the integration of the individual, the community and the peoples into the physical, social and cultural environment in which they were born.

INTRODUCTION

This report attempts to follow up on another one published by PBI in 2006 on the impacts of mining operations in Guatemala, providing a broader perspective that includes other business activities to exploit natural resources in Latin American countries such as Guatemala, and specifically addresses the reality of Guatemalan indigenous women in this regard.

For centuries, Latin America has been one of the regions of the world with the most human rights violations associated with the exploitation of its diverse natural resources. These violations have occurred since colonial times and particularly affect the rights of indigenous peoples. Today, there are still many areas rich in natural resources that attract foreign investors seeking to exploit them for mining purposes or to build power plants, particularly hydroelectric plants. These areas become the target of large multinational or transnational companies. The Guatemalan government has favored the exploitation of natural resources by private enterprise in the country, by contrast with initiatives in other Latin America countries to preserve and recover those resources for local benefit under the control of the people. The Guatemalan government more often approves such mega-projects against the will of the people who are directly affected by them. According to information available on the website of the Ministry of Energy and Mines, about 400 mining permits were granted in 2009, 15 hydroelectric plants are up and running, and there are 20 more in the planning, most of which are ready to start up, for a total of 35. In addition, there are monoculture projects for the growing of oil palms, maize and sugarcane.

Indigenous peoples have consistently opposed these projects and mega-projects and have expressed that opposition in many forms over time. The key issue has always been the aforementioned cosmovision and territorialism of the indigenous peoples, which are necessary for their survival as a people. Given the transcendence of the territory and its natural assets, this issue is always on the agendas of indigenous civil society coalitions at the Latin

American and international level, as well as organizations at the local and community level. These international and local organizations demand that their opinions with respect to the corporate exploitation of natural resources, as well as those of the communities directly affected by them, be taken into account. They demand that their right to be consulted be enforced by holding community referendums, the results of which should be decisive and binding when governments decide whether to permit the development of such projects.

In this context, indigenous women have played and continue to play a very important role. One particular case that has drawn a lot of international attention was that of eight Maya Mam women accused in June 2008 of aggravated encroachment to cause damage to power cables supplying electricity to the Marlin mine, owned by the company Montana Exploradora de Guatemala S.A., a subsidiary of the Canadian company Goldcorp. The arrest warrants against these residents of San Miguel Ixtahuacán (San Marcos) remain in effect. San Miguel Ixtahuacán is one of the towns most affected by gold mining in Guatemala. One of the accused women told PBI that she decided to interfere with the electrical wires passing through her property several months after asking the company to remove the utility pole from her land¹.

With the present report, PBI intends to draw attention to the reality of indigenous communities affected or threatened by the installation of large cement plants, mines or hydroelectric projects on their lands. We report from the perspective of Xinca, Kaqchikel and Q'eqchi' women. To interview them, we traveled to the three places in which they principally live (in the towns of Santa María Xalapán, Ixcán and San Juan Sacatepéquez), and which are representative of areas in which mega-projects are being installed on indigenous lands, and representative of the history of organized opposition to such projects about which the communities receive little information and are not involved or consulted. First, we describe the campaign of awareness about the arrival of these companies to the communities in question. Then, we analyze how organized opposition to the development of specific projects evolved. Finally, we examine the roots of opposition to existing projects in detail. Our intent is to draw attention to the particular role that indigenous women play in the defense of the natural assets of their lands.

The report begins with a general explanation of the reality of women in Guatemala, followed by case studies which attempt to highlight the involvement and the organizational efforts of women in their communities. Later, we include an example serving as an illustration of the problem in an international context, the emerging opposition and the impacts of these mega-projects, which have been denounced by civil society organizations. Finally, we explain some of the obligations of state institutions, as well as private domestic and international interests, as well as some recommendations made to them by the organizations and communities we interviewed for this report.

¹ Referring to the Guatemalan power supply company in the area, Distribuidora de Electricidad de Occidente, S.A. (DEOCSA), a subsidiary of the Spanish company Unión FENOSA (which has now merged with another Spanish company, Gas Natural).

National and
International Policies
and The Reality
of Guatemalan
Indigenous Women



1. INDIGENOUS PEOPLES, RURAL WOMEN AND POVERTY

Guatemala is a multiethnic, multilingual and multicultural society. According to the country's National Institute of Statistics (INE), 40% of the population is indigenous of Mayan, Xinka and Garinagu origin, and 60% is mestizo. Despite these official statistics, there is no consensus about the actual percentage of indigenous peoples in Guatemala, with some sources estimating it to be 60%, noting the limitations of the census.¹ The total population is estimated to be about 13 million, of which 52% live in rural areas and more than half are women. Twenty-four indigenous languages are spoken in the country, while the official language is Spanish (Art. 143 of the Constitution). A referendum was held in 1999 on proposed constitutional changes regarding the identity of indigenous peoples and official recognition of the 24 indigenous languages. The referendum was rejected by voters, however.²

According to several studies, poverty and extreme poverty affects women, indigenous peoples and those living in rural areas, more than it does men, the mestizo population and urban dwellers.³ Therefore, poverty particularly affects rural Guatemalan indigenous women, and the discrimination they suffer is evident in the fact that they are denied social, cultural, economic, political and civil rights.

In general, the evaluations conducted by civil society organizations, numerous international organizations, as well as historical analysis, recognize poverty and discrimination as institutionalized problems resulting from the continuance of an exclusionary and inequitable economic, social and political structure that began with the Spanish conquest and has lasted through the Guatemalan civil war (1960 to 1996). The poverty and discrimination of today are the consequences of a long history of conquest and colonization that

1 UN Report of the Special Rapporteur on the situation of human rights and the fundamental freedoms of indigenous peoples, Mr. Rodolfo Stavenhagen. November 2007.

2 ACNUR, <http://www.acnur.org/biblioteca/pdf/6289.pdf>

3 Mindiola, O. and Chabot, J. P., *E, Economic Opportunities and Indigenous Development*, Canadian Foundation for the Americas (FOCAL). May 2008.

began 500 years ago and culminated in the aforementioned 36-year civil war, which had devastating results for the population, particular the indigenous peoples. The crimes of genocide described in the 1999 report “Guatemala: Memory of Silence” by the Commission for Historical Clarification (CEH in Spanish) reveal the dimensions of the discrimination and racism in Guatemala.⁴ Members of the high command of the Guatemalan military during the late 1970s and early 1980s have been charged with these crimes in Guatemalan and Spanish courts (under the principle of Universal Jurisdiction).

Most of the obligations assumed by the state under the 1996 Peace Accords have not been fulfilled. Many of these obligations concern measures to be taken to change the structure of the state and alleviate persistent poverty. In addition to this failure to address the problems of the poor, transnational companies are being allowed to start up these mega-projects, and state institutions are not disclosing information or consulting the indigenous communities affected by plans to exploit natural resources which are vital to their physical and cultural existence at every level. Several of the women we interviewed expressed their fear that the consequences of these projects could be similar to those of the armed conflict, such as the tearing apart of their social fabric, the division and weakening of the community organization, and the forced displacement of the population. These fears are what drive their opposition.⁵

In one of its reports to the Inter-American Human Rights Commission, the state itself acknowledged the problem: “Social inequality in Guatemala is rooted in history and basically affects vulnerable sectors such as the rural population, ethnic groups, women, the elderly and children. In this context, women are most affected by discrimination, exclusion and oppression, and this situation has had repercussions on social development in Guatemala.”⁶

2. MACHISMO, FEMINISM AND VIOLENCE

2.1. PATRIARCHY, MACHISMO AND RACISM

A number of organizations and official bodies have used the terms racism and/or machismo to characterize the Guatemalan state.⁷ Regarding racism, the Commission for Historical Clarification concluded the following: “The proclamation of independence in 1821, an event prompted by the country’s elite, saw the creation of an authoritarian State which excluded the majority of the population, was racist in its precepts and practices, and served to protect the economic interests of the privileged minority. The evidence for this, throughout Guatemala’s history, but particularly so during the armed confrontation, lies in the fact that the violence was fundamentally directed by the State against the excluded, the poor and above all, the Mayan people, as well as against those who fought for justice and greater social equality.”⁸

In addition, the Mutual Support Group (GAM) notes the existence of an “enormous gap” between the rights of men and woman. “This inequality is reinforced by habits, customs,

4 CEH, “Guatemala: Memory of Silence,” Volume V, Guatemala, 1999: “In consequence, the CEH concludes that the State of Guatemala, within the framework of counterinsurgency operations carried out between 1981 and 1983, committed acts of genocide against groups of Mayan people who lived in the four regions analysed.”

5 Idem.

6 IHCR – OAS, Fifth Report on the Human Rights Situation in Guatemala. Chapter XIII. The Rights of the Woman, 2003.

7 CEH, Op. Cit. ; GAM, “Guatemala 1999-2006: Origen, manifestación y tendencias del feminicidio.” Guatemala, 2007.

8 CEH, Op. Cit. See also: Martínez Peláez, S., “La Patria del Criollo”, Editorial Universitaria. Guatemala, 1970 (1st edition); and Casaus Arzú, M., “Guatemala: Linaje y Racismo”, F&G Editores, 2007 (3rd edition, revised and expanded).

etc., which make up a predominantly patriarchal culture,” GAM wrote.⁹ One of the indigenous women we interviewed told us that machismo is deeply rooted. “It is passed on from generation to generation. It is now part of the nature of men and women”.¹⁰ On the other hand, while the Mayan cosmovision is based on principles such as equilibrium, harmony, duality and complementarity, what currently prevails is “a vision to maintain the system and the roles assigned to men and women”, said a member of the Committee for Campesino Unity (CUC);¹¹ In the reality of everyday life, this means that the principles of duality and complementarity are not fulfilled for indigenous women.¹²

One of the consequences of racism, patriarchy and machismo is that indigenous women are assigned specific roles and responsibilities. “It is they who live in the community, who fetch the water, who live and work at home, who care for the children when they become ill, who sell the flowers,” said one indigenous woman we interviewed¹³. What stood out in our interviews was that the division of work in terms of the roles assigned to each gender continued to be the practice in society, and although there has been some progress, there is still a long way to go to change this. Today, for example, women are involved in some tasks traditionally assigned to men (so-called “productive work” such as employment outside of the home), but the complementary situation in which men are assigned tasks traditionally assigned to women has not occurred (so-called “reproductive work” such as caring for the children). As one indigenous woman said: “There is no equality, there is no equity, and it should not be that way, because all of us (men and woman) have rights and obligations.”¹⁴

When focusing on the question of diversity, if we consider these gender imbalances in the context of the historical burden of racism, and take into account the different roles assigned to the indigenous and ladino population, it becomes apparent that indigenous women are most affected by the wholesale system of economic, political and social exclusion and inequality. It is therefore not surprising that a wide variety of studies and reports have found that indigenous women are those most impacted by poverty and inequality.¹⁵

Another notable aspect of the interviews we conducted with indigenous women was the acknowledgement that their role in the rural community today brings them close to the land and natural assets that provide them with food and water each day and care for their health. This also explains why they are the first to be affected by the deterioration of the environment and the exploitation of land and the basic natural resources necessary for life.

2.2. WOMEN'S MOVEMENTS IN GUATEMALA

According to some analysis, with the signing of the Peace Accords, women's movements in Guatemala were able to start positioning themselves to implement a political project with specific demands. This process was based on feminist theory, both in the urban context and in rural areas with indigenous women's organizations.¹⁶ The women's movement is one of the strongest players and has the greatest capacity for social coordina-

9 GAM, Op. Cit.

10 PBI, interview of women members of CUC. Guatemala, May 2009.

11 Cit. PBI, interview CUC.

12 PBI interview of members of the Tz'ununija' women's movement. Guatemala, April 2009.

13 PBI interview of members of the Association of San Juan Women (AGIMS). San Juan Sacatepéquez, Guatemala, May 2009.

14 PBI interview of employees of the Women's Office (Oficina de la Mujer). Playa Grande, Ixcán, May 2009.

15 FAO, “La mujer en la agricultura, medio ambiente y la producción rural”. Guatemala, 2004.

16 PBI interview of Andrés Cabanas, member of Mugarik Gabe and writer. Guatemala, May 2009.

tion. However, some studies point out that this process has been weakened by structural racism, which has been an obstacle to potential alliances between different sectors of civil society¹⁷. In the same way, racism and its consequences make coordination between indigenous and mestizo feminist movements difficult. “There are many ideas and values that we do not share,” said one woman from Mujeres Tz’ununija. “The conditions and the disadvantages suffered by indigenous women are not the same as those of mestizo women, and therefore neither are the demands.”¹⁸

In short, according to the analysis of various experts, the women’s movement suffers from the following weaknesses:¹⁹

- A pronounced disconnection between urban and community efforts.
- The movement is small in terms of numbers.
- Loss of civil society representatives as they join the public sphere.
- The difficulty of working in alliance with other sectors, such as the rural sector, due to the machismo that continues to prevail within the organizations.

2.3. STRUCTURAL VIOLENCE AGAINST WOMEN: FEMICIDE AND DOMESTIC VIOLENCE

According to various analyses, the strengthening of feminist movements after the signing of the Peace Accords (with the aforementioned weaknesses) was accompanied by a new era of violence against women which was different from that experienced during the armed conflict and which became apparent with the brutal spate of murders that became known as “femicide”.²⁰ Some analysts believe this was instigated by the response of the State and the society to the organization of women’s groups during the 1990s. In 2000, various offices of women’s organizations were ransacked and, in some cases, members of these groups were raped.²¹

There are several theories about the reasons behind the commission of these crimes against women, but due to poor investigation, there has been no substantial progress in resolving these cases and understanding the patterns.²² GAM sees the roots of femicide in Guatemala’s patriarchal culture. Historically, violence against women has been a means of domination, submission and control. The patriarchal system is seen by many as a means of maintaining physical control and punitive power over women. There is a political dimension to these murders of women according to some analysts, who consider them a consequence of this control and punitive power.²³ They are considered a warning for other women, particularly those who work or socialize outside the home.

Another consequence of this submission is domestic violence, according to a member of the Parish Social Services Office of the Ixcán we interviewed “Many women’s organizations accompany victims of sexist violence resulting from the inequality between men and women: physical and psychological abuse, contempt for the work carried out by women, and mistrust. If a woman leaves the house, they think she is looking for another man and does not respect her home,” the staff member said.²⁴

17 *El Observador*, ed. 3, No. 15. Guatemala, November 2008.

18 Cit. PBI interview of Movimiento de Mujeres Tz’ununija’.

19 Cit. PBI interview of Andrés Cabanas.

20 Fulchiron, A., “El Continuum de la guerra contra las mujeres”, *Revista Pueblos*, Asociación Paz con Dignidad, 20 December 2007. “The war on women in Guatemala did not end with the Peace Accords. The collapse of State institutions, impunity, the level of social degradation, the deep misogyny underlying the culture which dehumanizes women, are all factors that permit and incite a new femicide after the war. At <http://www.revistapueblos.org/spip.php?article654>

The word “femicide” begins to be used during the government of Álvaro Arzú in 1999, and is recognized internationally since 2003.

21 Cit. PBI, interview Cabanas.

22 GAM, Op. Cit.

23 Idem.

24 PBI interview of the staff of the Parish Social Services Office of Playa Grande, Ixcán, May 2009.

Overall, the people we interviewed observed that violence against women stands in the way of the society's economic development. One of the reasons for this is that women who are victims of violence suffer from health problems, their capacity to work is limited, they are denied access to jobs and are generally prevented from participating in public life, which leads to the impoverishment of women, their families and their communities. In 2007, a study published by the Spanish Ministry of Justice emphasized the need for more ambitious objectives than just eliminating violence against women, such as promoting the participation of women in the development process, especially in the area of family planning, environmental protection and education. "The violence limits a woman's opportunities to fully participate in development aspects of one type or another".²⁵

3. ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF INDIGENOUS WOMAN IN GUATEMALA

3.1. ACCESS TO LAND

The unequal distribution of land in Guatemala is very pronounced. It is among the Latin American countries with the highest concentration of land in the fewest number of hands. According to statistics from the Agricultural Census provided by the Ministry of Agriculture, Livestock and Food (MAGA in Spanish), there were 822,188 producers in 2003. Of this total, about 10% owned about 80% of the land. The remaining 20% of the land was split between the other 90% of the producers.²⁶ The land distribution among the general population is very similar, whether or not this involved people who work the land or not. According to a report by the Observatorio Social del Agro Mesoamericano ("Social Observatory of Meso-American Agriculture – OSAM in Spanish), this situation has changed little despite efforts over the last three decades. "After more than thirty years of land-access policies initiated by different government administrations – initially with high involvement of the state, and later in the framework of structural adjustments, with the impetus of the market as the principle regulator – the situation of land access and distribution in the country continues to be highly exclusionary".²⁷ The lack of land, restricted access and the problems of dispossession and evictions – factors which have been widely recognized as the causes of the civil war – continue to characterize the reality of a poor, rural population, the majority of which is indigenous. Guatemalan anthropologist and human rights researcher Anantonia Reyes says the Peace Accords have also been ineffective in countering this situation. "The institutions established by the Peace Accords have been incapable of challenging the structural model of land ownership, a model which has not generated progress for the rural population because it responds to the interests of landowners. The policies of MAGA and the Land Fund seek to create conditions for investment, treating land as a commodity, and the reduction of conflict as a way to generate governability, and women are affected in particular."²⁸

In this context, the reality is that women are almost entirely excluded from accessing land. "The majority of land is owned by men, and men are selling the land without the consent of the women," said one member of the Women's Office in Playa Grande, Ixcán.²⁹

25 Ana María Ovejero Puente, "Cooperación jurídica internacional en Iberoamérica en la lucha contra la violencia doméstica y de género." Informational Bulletin of the Spanish Ministry of Justice, ISSN 0211-4267, Year. 61, No. 2030, 2007.

26 MAGA, 2003 Agricultural Census.

27 OSAM, "Fontierras, el modelo de mercado y el acceso a la tierra en Guatemala. Balance y perspectivas". At <http://www.redmesoamericana.net/?q=node/26> - http://www.rhregional.org/esp_comun/3_fsa_2008.php

28 Reyes Prado, A., "El incumplimiento de los Acuerdos de Paz en Guatemala", *Revista Pueblos*, Asociación Paz con Dignidad, 4 December 2005; quoting "Seguimos con la vieja receta de las instituciones", *La Cuerda*, Year 8, No. 83. Guatemala, October 2005. At <http://www.revistapueblos.org/spip.php?article1031>

29 Cit. PBI interview at the Women's Office, Playa Grande.

According to a study by GAM, a woman's entitlement to property and land, to bank financing, to the concession of water sources, biodiversity and access to other natural resources is not proportional to their contribution to the rural economy.³⁰ The options for joint ownership of family land are limited by legal, political and cultural obstacles. For example, the 1962 Land Transformation Act cedes property ownership to just one person in the family, which implies the "head of household," a role assigned to the man in the framework of the aforementioned patriarchal culture. Regarding the inheritance rights of the spouse and descendants, the law says the latter must be farmers. This stipulation also limits a woman's right to inherit land, since in most cases the woman is not formally considered a farmer, although she may in fact be working as one. Between 1954 and 1996, just 8% of those inheriting land were women,³¹ and in 2005 women were the owners and heirs of 16.2% of the land.³²

In the last few decades, the number of women recognized as farmers has risen, particularly in the 1960s and 1970s, due above all to the increase in homes headed by women and to the increase in the seasonal migration of men. Accordingly, the conclusion is that women who own land tend to play a more important role in family decision-making.³³

As Reyna Cabá, town councilor of Ixcán, points out: "It is not just men who work the land, and they could not do it without us. In this regard, women also have a right to the land.³⁴ Moreover, it is a right that is recognized as part of the right to an adequate standard of living without any type of discrimination (neither gender nor ethnic)³⁵, which includes others such as the right to adequate food and the right to access water and productive resources such as the land.

Closely tied to the problems arising from the lack of access to land is the lack of access to basic services, which are also more limited for indigenous peoples. About 65% do not have access to the water system and just 50% have access to electricity.³⁶ This is ironic when considering that indigenous people live in areas in which the natural resources used as the source of such basic services are still very abundant. In this context, the exclusion that indigenous women face is not just related to the limits on their access to land but on their access to resources and services such as water and electricity.

Although it is not the purpose of this report to enter into the topic in depth, in addition to the economic dimension of the possession and ownership of land and the use of territory, other social and cultural aspects must be taken into account to effectively fulfil the right to land and territory of indigenous women, since they play an essential role in the life, culture, community dynamics and inter-community relations, due to their own cosmovision.

30 GAM, Op. Cit.

31 Deere, C. D. and León, M., "Mujer y Tierra en Guatemala", *Autores Invitados*, No. 4, Editores Siglo 21, AVANCSO, Guatemala, 1999.

32 Government of the Republic of Guatemala, SEPREM, National Policy for the Promotion and Development of Women (PNPDM), 2007.

33 Deere, C. D. and León, M., AVANCSO, Op. Cit.

34 PBI interview of Reyna Cabá. Ixcán, May 2009.

35 UN, International Covenant on Economic, Cultural and Social Rights (ICESCR), 1988.

36 Tz'ununija' Women's Movement, "Informe Alternativo sobre el Cumplimiento del Estado de Guatemala de los Compromisos de la CEDAW". Guatemala, 2009.

3.2. ACCESS TO EDUCATION AND HEALTH

Access to education

At the educational level, there are statistics that confirm the existence of factors that foster exclusion by ethnicity and gender. According to the national census of the National Statistics Institute (INE) of 2003, 48% of the indigenous population is illiterate, compared to 20% of the ladino population. Moreover, between 50% and 90% of indigenous women in rural areas cannot read or write.³⁷

The educational gaps between girls and boys remain in some parts of the country, particularly in rural areas in which the majority are indigenous. The priority continues to be educational access for boys. "In rural areas, the premise people start with is: Why do women need an education if they are going to get married and care for their husbands?" said a member of the San Juan Women's Coalition (AGIMS in Spanish).³⁸ This gap is wider at higher levels of education.³⁹ One of the main causes of school absenteeism is the rise in child labor and the increasing involvement of girls in this, including, for example, housework such as cooking and cleaning.⁴⁰

Access to healthcare

Public healthcare for women focuses mainly on maternity care. However, the maternal mortality rate continues to be high.⁴¹ One of the main reasons for this is the lack of available information and education on reproductive health. "The women in the (rural) communities have between 5 and 10 children because they continue to listen to the parish priest," said one member of AGIMS. "The situation is different in the urban centers."⁴² According to the Inter-American Commission on Human Rights (IACHR), teenage pregnancy is still a very serious problem affecting girls between the ages of 15 and 19. By age 19, nearly 30% have already been pregnant. Teenage pregnancy poses a risk to the health and development of the teenaged mother, as her education is interrupted, and to the fetus, as there is a higher risk of miscarriage with the unsafe conditions.⁴³

Another concern about limited access to healthcare voiced by the women we interviewed was the lack of adequate health centers and resources in their communities. In our interview of Mama Maquin, a women's organization linking 35 communities of returned refugees, we were told that some pregnant women have actually died trying to reach a health center on foot. "On other occasions, they arrive only to find that there are no doctors and there is no medicine," said one representative of the organization. "Moreover, many (of these women) are Q'eqchi' and do not speak the language. How are they supposed to explain things?."⁴⁴

In fact, those we interviewed stressed this language barrier as another factor that limits the access of indigenous women to education and health. They noted the need for a bilingual system that takes into account their cultural identity when providing public health and education services. Taking it a step further, in an alternative report on compliance by the Guatemalan government with the Convention on the Elimination of All Forms of Discrimination Against Women, the Tz'ununija Women's Movement demanded that "the

37 Idem.

38 Cit. PBI interview of AGIMS.

39 IACHR – OAS, Op. Cit. Only one in eight girls enrolled in school completes the sixth grade. The drop-out rate for girls is 81.5% in rural areas and 50% urban areas. Just 17% of girls finish primary school. In rural areas, 66% drop out before age 3. Just 38% of adult women have completed primary school, while 17% have completed secondary school and 4% have received more education.

40 GAM, Op. Cit.

41 Idem.

42 Cit. PBI interview of AGIMS.

43 CIDH – OEA, "Justicia e inclusión social: los desafíos de la Democracia en Guatemala." 29 December 2003.

44 PBI interview of the women of Mama Maquin. Playa Grande, Ixcán, May 2009.

Ministry of Health promote, respect and recognize indigenous health systems so that there can be comprehensive healthcare for indigenous women.⁴⁵

3.3. ACCESS TO EMPLOYMENT

Unequal access to education also results in serious restrictions on access by indigenous women to job opportunities. Moreover, when they do find a job, their pay is lower in comparison to that of men. Statistics provided by GAM facilitate a general understanding of the situation, with information that relates to gender and diversity. According to these statistics, a mestizo woman receives about 71% of a salary received by a mestizo man, and an indigenous woman receives about 58% of the salary received by an indigenous man. In general, indigenous men receive a lower salary than non-indigenous men.⁴⁶ Therefore, indigenous women are excluded much more from access to employment and the right to an adequate salary. The immediate consequence of this is greater impoverishment in this sector of the population.

The division of tasks between the sexes and the assignment of the reproductive role to women makes indigenous women even more vulnerable, as they face even greater obstacles than the men do in entering the formal job market.⁴⁷ According to the United Nations Development Programme (UNDP), this situation promotes a market for informal and unstable employment – such as the sale of food on the street. About 73% of women in urban areas, and 84% in rural areas are engaged in such informal work.⁴⁸ In rural areas, the agricultural jobs performed by woman are not formally recognized as such. Instead, they are treated as unremunerated auxiliary tasks. The women we interviewed said job opportunities in urban areas are limited to working in the sweatshops known in Spanish as maquilas, or in private homes as maids and/or nannies, etc. In most cases, the employment conditions are terrible (low pay, work in exchange for board, schooling or food; long work days; dismissal in case of pregnancy; denial of employment rights; abuse, harassment, sexual abuse and/or rape, etc.).⁴⁹ Consequently, women often remain financially dependent upon and subordinate to men.

4. ARE THE RIGHTS OF INDIGENOUS WOMEN GUARANTEED IN GUATEMALA?

4.1. POLITICAL PARTICIPATION AND THE RIGHT TO FULL CITIZENSHIP

Racism has been a fundamental obstacle that has excluded the indigenous population from exercising full citizenship, just as exclusionary and oppressive measures have made young people and women second-class citizens.⁵⁰

After examining the seventh report on Guatemala in February 2009, the Committee on the Elimination of All Forms of Discrimination against Women, which is made up of experts on women's issues from different UN member states, conveyed some observations, concerns and recommendations regarding compliance. The committee stated its concern about the "scarce knowledge that women have of their rights, particularly indigenous women in rural areas, domestic workers and women who work in the maquila industry and in agro-businesses." Accordingly, the committee recommended that Guatemala take "proactive measures to increase the knowledge that women have of their rights [...] taking into account illiteracy and multilingualism in the population, focusing in particular on all

45 Tz'ununija' Women's Movement, Op. Cit.

46 GAM, Op. Cit.

47 Idem.

48 UNDP Guatemala, "Guatemala: una agenda para el Desarrollo Humano." Informe Nacional de Desarrollo Humano 2003.

49 Cit. PBI interview of Tz'ununija' Women's Movement.

50 *El Observador*, Year 3, No. 15. Guatemala, November 2008.

vulnerable groups of women so that they know their rights and are capable of exercising them".⁵¹

Another of the committee's concerns was the "rooting of patriarchal activities and stereotypes regarding the duties and responsibilities of women and men in the family, at work, in politics and in society, which represent serious obstacles to women in the exercise of their human rights." Therefore, one of the committee's recommendations to the government was the adoption of "a general strategy to eliminate gender stereotypes regarding women in general, and discrimination against women based on ethnic origin or sexuality in particular".⁵²

Both the racism mentioned at the start of this section which represents a fundamental obstacle to full citizenship, as well as the concerns about the obstacles faced by women in exercising their rights and making them effective, illustrate the point of the particular problems faced by indigenous women.

The exercise of the right to vote is a specific example of the difficulties, limits and inequities faced by indigenous women. In 1945, only women who could read and write received recognition of their right to vote, excluding a large percentage of women, particularly indigenous women (see section 3.2 Access to Education and Health). About 20 years later, recognition of this right was extended to all women of legal age under the same terms for men. However, just 33% of women voted in the following elections.⁵³ In addition to the fundamental obstacles referred to above, there are other more practical limits on the exercise of political rights by indigenous women. For example, the location of polling stations in urban areas, the high cost of transportation from rural areas, and the lack of personal identity cards, which prevents registration in the voting census.

Moreover, the right of indigenous women to be elected and to representation on government bodies and in public administrations at all levels and in the three branches of government (Executive, Legislative and Judicial) was another of the issues raised by the indigenous women's organizations we interviewed,⁵⁴ and pointed out by the Committee on the Elimination of All Forms of Discrimination against Women.⁵⁵ Among other recommendations, the committee urged the Guatemalan government to "take continuous measures, including special measures of a temporary nature [also called positive action] to increase the representation of women in all areas of political and public life."

Political Offices	TOTAL	MEN		WOMEN	
		2003	2007	2003	2007
Congress	158	144 (91%)	139 (88%)	14 (9%)	19 (12%)
Ministries, Executive Branch	13	11 (87%)	12 (92%)	2 (13%)	1 (8%)
Mayors	331	321 (97%)	322 (98%)	9 (3%)	8 (2%)

Source: Facultad Latinoamericana de Ciencias Sociales (FLACSO)
<http://www.flacso.edu.gt/site/wp-content/uploads/2010/03/tabla1dialogo10.jpg>

51 Committee on the Elimination of All Forms of Discrimination against Women, final observations - Guatemala, 43rd meeting period; 12 February 2009.

52 Idem.

53 CONGCOOP, "Ampliación del acceso al crédito en el área rural de Guatemala". Guatemala, 2001. Of all registered voters, about 57% were men and 43% women. The report notes that about 30% of women with the right to vote are not registered, particularly those that live in rural and indigenous communities.

54 Tz'ununija' Women's Movement, Op. Cit.

55 Committee on the Elimination of All Forms of Discrimination against Women, Op. Cit.

	MESTIZO WOMEN		INDIGENOUS WOMEN	
	2003	2007	2003	2007
Political Offices				
Congress	13 (8,22%)	15 (9,5%)	1 (9%)	4 (2,5%)
Ministries, Executive Branch	2 (13%)	1 (8%)	0	0
Mayors	8 (2,4%)	8 (2%)	0	0

Source: Facultad Latinoamericana de Ciencias Sociales (FLACSO)
<http://www.flacso.edu.gt/site/wp-content/uploads/2010/03/tabla2dialogo10.jpg>

Putting aside the restrictions on the participation of indigenous women in state institutions, there is general recognition of their participation and activism at the community level, particularly within indigenous organizational structures. At this level, women find channels for participating in spaces that are recognized and legitimized by indigenous peoples and communities (such as midwife councils, community development councils, etc.). The National Union of Guatemalan Women (UNAMG in Spanish) notes that this type of participation has increased since the signing of the Peace Accords. "One notable aspect of these last 13 years is the development of gender awareness, as well as greater levels of organization and activism on the part of women, especially at the community level. The development of leading roles for indigenous women stands out in particular."⁵⁶

Moreover, the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, noted in 2005 that indigenous women do not simply accept their lot. "Indigenous and rural women do not passively surrender to the dual, and sometimes multiple, threats hovering over them, but instead adopt strategies to individually or collectively combat domestic and traditional forms of violence."⁵⁷

Their activism and political participation is also recognized and visible at the social level, and they have even created their own spaces for transnational coordination on political issues and positions with which they are concerned as women and as indigenous persons.⁵⁸

4.2. GUATEMALAN POLICIES AND INSTITUTIONS

Since the Peace Accords were signed, several policies have developed in Guatemala aimed at addressing the situation of gender inequality and violence against women, and these led to the creation of the following entities, among others:

The National Women's Forum and the Presidential Secretariat for Women (SEPREM)

In 1998, a space for dialog was created with the FNM (Spanish abbreviation for the National Women's Forum, the main purpose of which is to develop policies in favor of women.⁵⁹ This body coordinates with the Presidential Secretariat for Women (SEPREM in Spanish), which was established in May 2000 to monitor fulfillment of the commitments of the

⁵⁶ UNAMG, "Pronunciamento político de la UNAMG a 13 años de los Acuerdos de Paz". Guatemala, 5 January 2010.

⁵⁷ ECOSOC – Human Rights Committees, integration of women's human rights and a gender perspective: Violence against women. Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk. 10 February 2005.

⁵⁸ One specific result of this was the recent celebration of the First Continental Summit of Indigenous Women in Puno, Peru, on 27 and 28 May 2009.

⁵⁹ Government of the Republic of Guatemala, SEPREM, National Policy for the Promotion and Integral Development of Women, Equal Opportunity Programme 2001-2006.

Peace Accords, and to plan and promote policies and projects aimed at women.⁶⁰ In 2007, the National Policy for the Promotion and Integral Development of Women 2008-2023 (PNPDIM in Spanish) was approved. The purpose of this policy is to improve conditions for women and address inequalities and inequities that affect them, taking cultural and ethnic diversity into account. The PNPDIM itself acknowledges that Guatemala is an exclusionary state which has favored unequal development between urban and rural areas, and unequal access and opportunities for different ethnic cultures and for women.⁶¹ Moreover, the policy emphasizes the “guarantee of the right of women from indigenous communities to be consulted in accordance with Convention 169 of the International Labour Organization on indigenous peoples and tribes in independent countries.”⁶²

The Indigenous Women's Defense Office and the National Coordinating Body for the Prevention of Domestic Violence and Violence against Women)

In compliance with one of the commitments under the Peace Accord on the Identity and Rights of the Indigenous People, The Indigenous Women's Defense Office (DEMI in Spanish) was established to fight the discrimination and violence faced by indigenous women.⁶³ Another body established to counter patterns of human rights violations and domestic violence against women is the National Coordinating Body for the Prevention of Domestic Violence and Violence against Women (CONAPREVI in Spanish). CONAPREVI was established in 2000. The legislation to support this institutional and political framework was approved by the Guatemalan Congress years later, in April of 2008. The Law against Femicide and other Forms of Violence against Women establishes penalties of up to 50 years in prison for anyone who kills women because they are women and sanctions any type of gender violence (25 to 50 years of prison time for charges of femicide and 5 to 12 years for committing crimes of sexual, physical or psychological violence). One year after the law took effect, just two perpetrators had been convicted despite the fact that 722 women were murdered during that year (with 75% of the cases considered femicide). Between 2001 and 2007, 3,107 women died violent deaths in Guatemala,⁶⁴ while statistics published by GAM indicate that there were more than 4,000 cases of femicide between 1999 and 2008.

Social Cohesion

With the intention of supporting rural development, the Government, led by the UNE (“National Unity of Hope”), has promoted a policy called “social cohesion.” Several programs have been created under this policy, including *Mi Familia Progres*a (“My Family Progresses”) coordinated by the Social Cohesion Council. Its objective is to provide financial support to families living in poverty so that primary education and preventive and nutritional health services are available to them.⁶⁵ However, these policies have not been accepted by some of the communities and organizations interviewed by PBI. “The 150 quetzales [USD18.75] that they give us is not enough because people arrive from the communities, pay the fare and lose a day's work,” said a woman from the organization Puentes de Paz (“Bridges of Peace”). To the contrary, it has fostered divisions within the communities because some

60 UNAMG, “Las Mujeres y el Proceso de Paz en Guatemala. Etapa de Implementacion de los Acuerdos de Paz”. Guatemala 2004.

61 Government of the Republic of Guatemala, SEPREM, National Policy for the Promotion and Integral Development of Women, 2007.

62 *El Observador* No. 15, Op. Cit.

63 UNAMG, Op. Cit., 2004.

64 Observatory of Crimes Against Women, “La violencia contra las mujeres en Guatemala en cifras.” 26 May 2009. At http://www.radiofeminista.net/mayo09/notas/ob_guate_cifras.htm

65 <http://www.mifamiliaprogres.a.gob.gt>

women receive it while others, who are even more at risk, do not receive anything. We do not know what the President's intention is, but we are wary of it. This is not the solution to poverty.⁶⁶

4.3. INTERNATIONAL INSTRUMENTS FOR THE PROTECTION OF HUMAN RIGHTS

According to the International Fund for Agricultural Development (IFAD), a specialized agency of the United Nations, rural women of developing countries are among the world's poorest and vulnerable, and the poverty index continues to rise.⁶⁷ Several of the people we interviewed said the situation is not improving. "It is getting worse in Guatemala due to the deep-rooted stigma against indigenous peoples. Many times you are discriminated against just for being indigenous," said one representative of the Women's Office in Playa Grande, Ixcán.⁶⁸ However, there are several international instruments that the Guatemalan government has subscribed to address the problem of discrimination. These include the UN 2000 Millennium Development Goals, which declare gender equality to be an essential condition for attaining all development goal.⁶⁹ Guatemala has also ratified a number of international conventions for this purpose.⁷⁰

Regarding the collective rights of indigenous peoples, the Guatemalan government has also ratified several international instruments. ILO Convention 169 on Indigenous Peoples and Tribes in Independent Countries, and the UN Declaration on the Rights of Indigenous Peoples establish the right of communities to be informed and consulted on questions that affect their development. At the national level, the Peace Accord on the Identity and Rights of the Indigenous Peoples also recognizes the right of indigenous communities to participate in the management and conservation of the natural resources on their lands. Despite this, Guatemala's Constitutional Court ruled in 2007 that a public referendum held in Sipakapa (San Marcos) on the issue of the use of natural resources was non-binding, setting a legal precedent. In 2009, the Constitutional Court ruled that the Guatemalan government was obliged to monitor the effectiveness of the right to be consulted as one of the collective rights of indigenous peoples, but reiterated that the results of a vote are non-binding in the event that no agreement is reached after consultation and dialog on projects that affect the environment.

66 PBI interview with the women of Puente de Paz, Playa Grande, Ixcán, May 2009

67 International Fund for Agriculture (IFAD) "The state of world rural poverty. An inquiry into its causes and consequences", Chapter 9: Rural women in development. Great Britain, 1992.

68 Cit. PBI interview of the Women's Office.

69 GAM, Op. Cit.

70 These include the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1988); the first and second Optional Protocol to the ICESCR (2000); the Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1983); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1982); the Convention on the Political Rights of Women (1959); the Optional Protocol of the CEDAW (signed but still not ratified, 2000); the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms; the American Convention on Human Rights; the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights (the "Protocol of San Salvador") (2000); the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará," 2003).

Xinca,
Q'eqchi and
Kaqchikel Women
Defending Nature's Assets



This report deals with three cases in regions with indigenous communities that are affected and/or threatened by the installation of mega-projects for the exploitation of natural resources on their lands. The intent is to focus on the organizations established by women in these communities, their strategies, the obstacles they face, and the demands they are making on state and private institutions.

Xincas women work from Jalapa to raise the collective consciousness

In the Xinka communities of Santa María Xalapán in the Department of Jalapa, a group of women have organized to confront the arrival of transnational companies seeking to exploit the area's natural assets, which the indigenous people see as part of their cultural identity. By contrast with the other two cases mentioned below, here the communities are just beginning to organize against these mega-projects. PBI interviewed the women who form part of the Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ). These women are the main organizers and promoters of the awareness campaign in the communities affected by these projects.

Community organization of the Q'eqchi women of Ixcán

In Ixcán, El Quiché, the Q'eqchi women have organized to oppose a new attempt to construct a hydroelectric dam in Xalalá. We also report on the response in these communities to monoculture projects for the planting of maize and oil palms.

The opposition of Kaqchikel communities in San Juan Sacatepéquez.

The Kaqchikel communities of the town of San Juan Sacatepéquez in the Department of Guatemala live with the environmental, social, economic and cultural consequences of the installation of a cement plant without having been consulted and informed beforehand in a transparent way.

1. XINCA WOMEN RAISE COMMUNITY AWARENESS: AYAJLI, HURAKLI XINKALI NA XALAPÁN, HORO HUTA NARU¹

1.1. JALAPA, THE COMMUNITY OF SANTA MARÍA XALAPÁN AND THE XINCA PEOPLE Jalapa and Santa María Xalapán

The Department of Jalapa is in the Southeastern part of Guatemala and has a population of about 280,000 of which 61.2% live in poverty.² The department's economy is based on commercial activities and on the production of a variety of crops in accordance with the varied climatic conditions and topography. According to information provided in the local communities, the eastern drug-trafficking route passes through Jalapa, and the department is known for a high level of corruption.³

The area of Jalapa in which we conducted our interviews is called Montaña de Santa María Xalapán. This is an autonomous community that at one time in history stretched over about 416 square kilometers,⁴ but now covers about 170 square kilometers due to supplementary land titling.⁵ This supplementary land titling has been used to expropriate land since colonial times. Santa María Xalapán has a population of about 85,000 divided between 12 cantons and governed by the Communal Board, which was established by the Communal Statutes, more commonly known as the Law of the Mountain. This law was recognized by a Governmental Resolution in 1926 under General José María Orellana, then president of Guatemala. It contains 67 articles and covers traditional rules passed down from generation to generation, including a prohibition against selling communal lands to foreigners.⁶

The Xinca People

The Xinca people currently live in eastern Guatemala, where the population is predominantly ladino. During the long period of Spanish conquest and colonization, the region underwent a social transformation due to the reduction and subjection of the indigenous population, and the increasingly Spanish and mestizo character. There are currently Xinca communities in the departments of Jalapa, Jutiapa and Santa Rosa, along with other Mayan ethnic groups, such as the Poqoman in Jalapa and the Ch'orti' in Chiquimula. According to the Center for Mayan Documentation and Information, there are currently 2000-2500 people who are related in one way or another to the Xinca people.⁷ "In practice, because of the loss of the language and ignorance of history, the Xinca culture is no longer recognized as such," said a member of AMISMAXAJ. "Few people can speak the language. Those that use the words, don't know their origin."⁸ The Xinca people are not recognized as such in the Guatemalan constitution, although they were mentioned as a people

1 In English: "Xinca women and men of Xalapán defending our Mother Earth."

2 National Institute of Statistics (INE), National Survey on Living Conditions (ENCOVI). Guatemala, 2006.

3 PBI interview of the Sector de Mujeres ("Women's Sector"). Guatemala, April 2009.

4 973 *cabellerías*, according to the Royal Deed issued by Spain during the colonial period.

5 Reduced to 397 *cabellerías* with supplemental land titling, which could be requested by anyone who could demonstrate the legal, continuous, peaceful, public, good-faith possession of land in their own name during a period of no less than 10 years (Decree 49-79). However, not all communities have the titles to their land available.

6 PBI interview with Lorena Cabnal, member AMISMAXAJ. Guatemala, June 2009.

7 Mayan Documentation and Information Center (CEDIM), "Diagnóstico de siete comunidades lingüísticas en vías de extinción". Guatemala, 1995

8 PBI interview with the women of AMISMAXAJ. Santa María Xalapán, Jalapa, May 2009.



in the Peace Accord on the Identity and Rights of Indigenous Peoples. The Xinca communities are engaged in the process of rebuilding their identity on the basis of their historical memory and by means of recovering their language, as well as lands that were legalized by old deeds issued by the King of Spain in the period of the conquest, but now occupied illegitimately by others. The recovery of these lands implies the defense of natural assets, which are considered sacred under the Xinca cosmovision. "That is why we do not say natural 'resources' but 'assets,' because the land is sacred, it gives life," said a representative of AMISMAXAJ. "It is not an exploitable and renewable economic resource."⁹

1.2. AMISMAXAJ DEFENDING COLLECTIVE NATURAL ASSETS

The creation of the organization: the gender issue

AMISMAXAJ began on the initiative of two women who called together the women of the village to talk about and reflect upon the human rights of women. There was a willingness to organize but the women ran into some difficulties "because organizing is a problem," said one member of AMISMAXAJ. "Before you know it, they are calling you a guerrilla, and if you are women it is even more difficult."¹⁰ In January of 2004, an association of Xalapán women was officially formed to promote the political education of women in the "Mountain" communities. The founders went to the capital to take part in courses at the Political Training Academy of the Sector de Mujeres (a coalition of several women's organizations), and they began training other women in their communities by setting up workshops and inviting them to take part in courses at the academy, which had an exponential effect on the transmission of knowledge. "Up until then, we women only listened, we did not speak or bring paper and pens to the meetings," said one woman we interviewed. And, like other friends of mine, I did not know how to write, and they taught me how to on that occasion."¹¹ For women, the need to establish an organization exclusively for themselves arose with the need to have their voices heard. "We have fewer spaces and opportunities for involvement to express what we think in mixed organizations," said one member of AMISMAXAJ. "We live in a culture of discrimination and inequality."¹²

In June 2009, the association had 65 members who were between 11 and 65 years of age, and its work focused on six areas: political participation; raising awareness regarding discrimination, racism and violence; searching for economic alternatives, and political training and education for women. Likewise, the association addresses the revitalization of and exposure to the Xinca ethnic identity, which includes the defense of natural assets. "Like our grandfathers and grandmothers, we have the duty to protect the land, air, water and fire because we cannot live without these four elements," said one member. "Everything in the cosmos lives in eternal equilibrium, which we understand to mean that any form of looting and plundering of the natural assets is a form of violence against our Mother Earth and against the men and women who live with her. Therefore, we have to reflect on our territorial demands and fight in their defense, as is the case with the fight against mining."¹³

AMISMAXAJ has sought coordination with other civil society organizations and coalitions. For example, it coordinates with the Sector de Mujeres on

⁹ Cit PBI interview of AMISMAXAJ.

¹⁰ Idem.

¹¹ Idem.

¹² Idem.

¹³ Idem.



matters of gender equity, political training, violence against women and organizational strength; with Waqib Kej on the rights of indigenous peoples, and with the Xinca Community Front and other local organizations on the defense of the mountain's natural assets.¹⁴ "We come together to start the process of the social and historical struggle against all types of mining, oil and hydroelectric exploration and operations in the mountain of Xalapán and the Ch'orti' area in Chiquimula," a statement issued by the indigenous community of Santa María Xalapán said.¹⁵

Developing a strategy for preserving natural assets

According to the information gathered in our interviews, the communities of Santa María Xalapán have not yet been directly affected by mining or oil operations. AMISMAXAJ began learning about the issue by participating in activities, community referendums and meetings in which information was provided about the concessions that were granted by the Ministry of Energy and Mines in the department of Jalapa without consulting and informing the communities beforehand. Prior to that, AMISMAXAJ did not have much information. "We had not analyzed the matter to know that the department of Jalapa was also affected by national policies to exploit the natural assets," a representative of the organization said. "We verified that permits were granted in several areas for mining and oil exploration."¹⁶

After that, the women's organization began following up on the mining issue. In November 2008, the different organizations of Xalapán were called together to exchange information about the current situation in Jalapa and explain the experiences of other communities in which mining operations already existed. "This collaborative effort arose by necessity due to the mining," one member said. "It was us, the women, who urged the men to participate. At first, the men did not believe it because it was women who were telling them about it."¹⁷

The Xinca Community Front has proposed the following actions as part of the community strategy to preserve the natural assets:

- Inform, train, analyze and propose steps to be taken by the community boards themselves regarding the negative effects of mining activity and the sale of land that it entails.
- Incorporate the demands and needs of the Xinca people on political agendas.
- Draw attention to the Xinca community with public activities.
- Increase political participation in the Xinca communities.

1.3. THE EXPORLATION AND EXPLOITATION OF NATURAL ASSETS

The arrival of mining and oil operations

According to the women we interviewed in the different organizations, while there are currently no projects under development for oil operations, complaints have already been filed with indigenous authorities because foreign persons have been spotted over the last five years inspecting, tagging and attempting to buy lands on which there are known petroleum deposits under the mountain.¹⁸

14 Other local bodies with which they coordinate are: the Indigenous Government, The Communal Board of Santa María Xalapán (Jalapa), the Xinka Xalapán Group, the Parish Council Nuestra Señora de la Expectación, the 56 community development boards (COCODES) established in the mountain, leaders of civil society organizations in Xalapán, and Coordinating Body of Associations and Communities for the Integral Development of the Ch'orti' Region (COMUNDICH).

15 Policy statement of the Indigenous Community of Santa María Xalapán. 5 December 2008.

16 Cit. PBI interview of AMISMAXAJ.

17 Idem.

18 Cit. PBI interview with Lorena Cabnal.

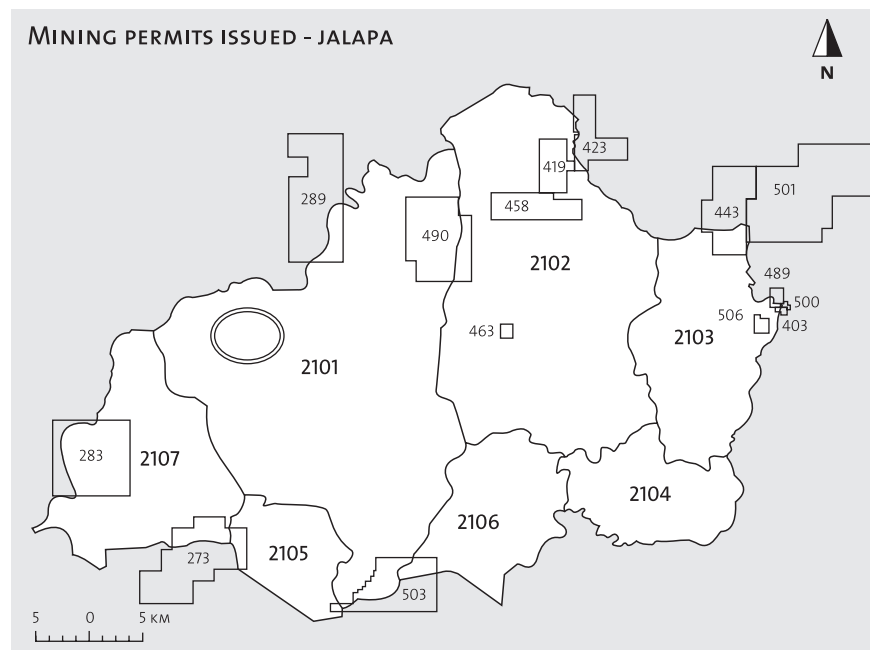


GOVERNMENT OF ÁLVARO COLOM
 MINISTRY OF ENERGY AND MINES
 GENERAL DIRECTORATE OF MINING
 MAY 2009

CODE	MUNICIPALITY
2101	Jalapa
2102	San Pedro Pinula
2103	San Luis Jilotepeque
2104	San Manuel Chaparrón
2105	San Carlos Alzatate
2106	Monjas
2107	Mataquescuintla

UNIVERSAL TRANSVERSE
 MERCATOR PROJECTION
 NAD 27 - ZONE 15
 SOURCE: MINING REGISTRY

Map showing where mining operation permits have been issued in the Department of Jalapa. The circle indicates the area known as the Santa María Xalapán mountain. Source: Information from the Ministry of Energy and Mines provided to PBI upon request. Guatemala City, Guatemala, May 2009. PBI



Regarding the permits for mining exploration and operations, public information has been confusing¹⁹, and has indicated that there were 15 permits issued in the department of Jalapa, of which nine are for exploration and six for operations. The department covers almost 2,000 square kilometers of which 430 square kilometers have been ceded to private companies that carry out these activities²⁰. The statement issued by representatives of the Xinca community said the granting of these permits “constitutes a serious violation of the right to self-determination as an indigenous people. We were not consulted about their approval and the operation.”²¹

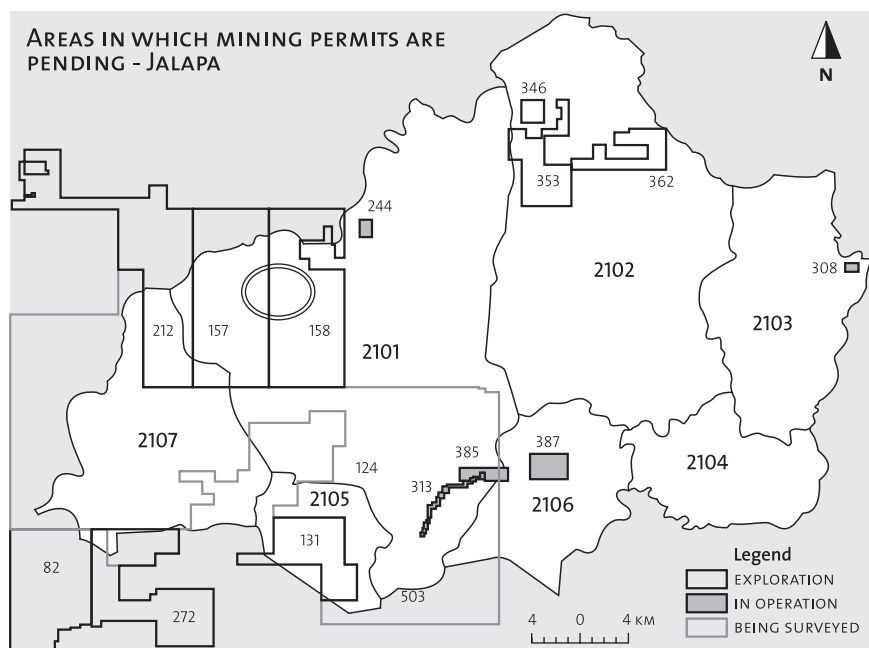
In addition, the association has identified several private companies with economic interests in the eastern region. The first one mentioned is the company Montana Exploradora de Guatemala S.A, a subsidiary of the Canadian company Goldcorp. Through another subsidiary, Entre Mares de Guatemala S.A., this company has a project for operations in Jutiapa, the neighboring department of Jalapa. This project is named Cerro Blanco. In light of the company's background in the department of San Marcos, the communities of Xalapán are afraid that rumors of the company's plan to set up operations in the mountain may be true. There are various factors behind their suspicions: first, the lack of information around the Cerro Blanco project; second, the fact that three exploration permits have been granted to the same subsidiary in the department of Jalapa;²² and, finally, the construction of a road between Jalapa and Xalapán which passes by the mountain toward the Sierra de la Culebra, where mining and oil concessions have been granted.

19 According to the ministry's website, nine mining exploration and operation permits have been issued (nickel, cobalt, platinum, cadmium, chrome, gold, silver, copper, zinc, lead, molybdenum and magnesium, among other minerals). However, the ministry's statistics mention 16 permits (five for exploration, six for operations, and five under extension). Under the Information Access Law, PBI was able to obtain an updated database from the ministry which lists 15 permits to carry out mining activities in the area.

20 Ministry of Energy and Mines database. May 2009.

21 Op. Cit., Policy statement of the Indigenous Community of Santa María Xalapán.

22 http://www.mem.gob.gt/portal/MEMDocuments/DGM/CatastroEnLinea/Derechos-MinerosEnSolicitud/marzo_2009/ot_jalapa.pdf



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UNIVERSAL TRANSVERSE
MERCATOR PROJECTION
NAD 27 - ZONE 15
SOURCE: MINING REGISTRY

Map showing mining areas for which mining exploration, survey and operation permits have been requested in the Department of Jalapa.

The circle indicates the area known as the Santa María Xalapán mountain.

Source: Information from the Ministry of Energy and Mines provided to PBI upon request. Guatemala City, Guatemala, May 2009. PBI.

In its 2008 policy statement, the Xinca Community Front noted that some “deputies for the department of Jalapa on the 2008 and 2009 commissions served with the Chairmanship of the Commission on the Environment, Ecology and Natural Resources of the National Congress of the Republic, which indicates that there are parties interested in the granting of mining permits”.²³

Other threats to natural assets

In addition to the risks from mining and oil exploration, AMISMAXAJ has identified several activities that harm the environment:²⁴

Water. The increase in pollution is one of the main concerns of the mountain population. In recent years, an increase in infant mortality has been observed which has been linked to water use, although the main problem is the shortage of water. Recently, a Canadian company offered to build wells. At first, the people were suspicious of the purpose of the wells. Were they for obtaining water or minerals and oil? At the moment, according to the organizations interviewed by PBI, “three of the 75 wells were intended for the supply of water, the others were intended for exploration (oil, minerals).”²⁵

Plants and animals. Excessive logging is another problem raised by those interviewed. Local communities acknowledge that part of the timber is for individual use, but that a large part is intended for sale. The situation is worsened by the high risk of forest fires in the area.

Waste disposal. Excessive rubbish and the lack of municipal policies regarding urban waste is another problem that affects the most neglected communities.

Improper use of land. The abuse of chemical fertilizers and the cultivation of non-traditional products for the production of biofuels were characterized by the organizations we interviewed as serious threats to food sovereignty.

²³ Idem.

²⁴ Cit. PBI interview of AMISMAXAJ.

²⁵ Cit. PBI interview of AMISMAXAJ.

1.4. DEMANDS ON THE GOVERNMENT

With the arrival of mining and oil companies to their lands, the Xinca communities of the mountain have made various demands on the government in their policy statements:

- To recognize the rights of indigenous peoples and respect organizational and ancestral autonomy.
- To respect the agreements, laws, conventions and treaties signed by Guatemala.²⁶
- To respect the right to be freely consulted and informed beforehand about the management of lands in the Xinca region. "We sought out the information. The government and the companies did not inform us," the statement reads.²⁷
- To guarantee the safety of the communities. Several women received threats for having promoted the right of women to vote (2003) and for organizing groups to address the matter of mining and transgenic maize (2009).

1.5. THE ASSOCIATION OF INDIGENOUS WOMEN OF THE XALAPÁN MOUNTAIN AND PBI

PBI began accompanying AMISMAXAJ in July of 2009. At that time, the association consisted of 75 women representing 15 Xinca communities from the Santa María Xalapán Mountain in Jalapa. This has included the presence of PBI volunteers in the mountain communities, in the office of the association, or the accompaniment of the women during activities in Jalapa or in Guatemala City. It also has included observation of events and public activities organized or attended by AMISMAXAJ, dialog with public authorities and international institutions and organizations in Guatemala and abroad, as well as advocacy work in Europe and North America to express our concern for their safety. We also prepare and distribute publications to provide information on the work that AMISMAXAJ does, the political context, the obstacles and difficulties they encounter, and their achievements in the defense and promotion of human rights.

For example, in July 2009 we observed a march by the Xinca people against mining and oil exploration and exploitation in the department of Jalapa and throughout the country, and we observed a march in the capital in which an open letter signed by 20,000 people from the Xinca community of Santa María Xalapán was delivered to President Alvaro Colom and Congress. The letter included demands that the government deny and reject the validity of 15 exploration and/or operational permits for mining and oil activities in the department of Jalapa, citing the lack of consultation as required by current international law. In 2009, several members of the association received threats due to their active membership in the organization.



26 "In accordance with the national and international legal framework; the Constitution of Guatemala, the Framework Law of the Peace Accords, the Accord on the Identity and Rights of Indigenous Peoples, ILO Convention 169, the UN Declaration on the Rights of Indigenous Peoples and the Universal Declaration of Human Rights, among others, because mining, oil and hydroelectric operations constitute a direct form of serious violations of our historic rights as indigenous peoples, as they violate ancestral principles and values."

27 Op. Cit., Policy statement of the indigenous community of Santa María Xalapán.

2. COMMUNITY ORGANIZATION OF Q'EQCHI WOMEN IN IXCÁN, DEPARTMENT OF EL QUICHÉ

2.1. EL IXCÁN: MULTICULTURAL TOWN IN EL QUICHÉ

The Department of El Quiché and the Municipality of Ixcán

El Quiché, a department located to the northwest of Guatemala City, has a population of 770,000 residents of which 81% live in poverty.²⁸ Its hydrogeological and geographical features have made it the target of transnational companies, especially those interested in building hydroelectric power stations. For example, in the Ixil Triangle, several projects have been drawing protests for years.²⁹ Between 1974 and 1977, Guatemala implemented the National Electrification Master Plan and identified five large projects,³⁰ among them the Xalalá hydroelectric dam to be located in the northwestern part of El Quiché in the town of Ixcán.³¹

With an area of 1,575 square kilometers, Ixcán has a population of about 75,000 with 178 villages and hamlets. It is the largest area of any of the 21 municipalities in the department. According to 2005 statistics, women make up 63% of the population, and 70% is indigenous, mostly Q'eqchi. There are also Q'anjob'al, Mam, Poqomchí, Poptí, Chuj, K'iche', Ixil and Achí. Half the population is currently unemployed, a third is illiterate, and more than a quarter live in extreme poverty, more so in the rural areas.³²

Historical Information on the Settlement of Ixcán

Until the end of the 19th century, the Ixcán region was essentially jungle. Starting with the Liberal Reform of 1871, which led to the loss of lands by various indigenous communities, Q'eqchi' and Poqomchí groups began arriving in search of land. Their settlements were expanded after 1945 with the migration of Q'eqchi' peoples from Alta Verapaz.³³ During the 1960s, the settlement process was coordinated by the Catholic Church,³⁴ and this particularly involved the creation of cooperatives. The result of these types of settlements was that Ixcán had areas with a Q'eqchi' majority, as well as multi-ethnic areas that were settled by families from the departments of Huehuetenango and Quiché. In the 1970s and 1980s, the region was struck hard by the "scorched earth" policy that caused a large part of the population to seek refuge in Mexico, while other communities declared their resistance in mountains and the jungle, creating the Communities of the Population in Resistance (CPR) of the Sierra and the Ixcán. In addition, forced resettlements began with the creation of "model villages" under the control of the armed forces. In the 1990s, as the Peace Accords were being signed, particularly the Accord on the Resettlement of Populations Uprooted by the Armed Conflict of 17 June 1994 signed by the Government of Guatemala and the URNG, and a previous agreement signed in October 1992 between the Government and the Permanent Commissions of Guatemalan Refugees, displaced and

28 Cit. INE.

29 "El Tesoro," and "HidroXacbal" in the town of San Gaspar Chajul, and "Palo Viejo" in San Juan Cotzal.

30 Two of these projects are currently operating (Aguacapa and Chixoy), and three are still pending execution (Chulac on the Cahabón river, and Serchil and Xalalá on the Chixoy river). Followup Committee on the Ixcán Referendum, Bulletin for the Ixcán Referendum, 20 April 2007.

31 Ixcán was declared a municipality by Government Resolution 722-85 of 21 August 1985.

32 Ixcán Referendum Follow-Up Committee, "Boletín para la Consulta Comunitaria de Buena Fe". Ixcán, 20 April 2007.

33 Due to the seizure of properties belonging to German families by the rotational government.

34 The Maryknolls from Huehuetenango and the Sacred Heart missionaries from El Quiché.



refugee populations began resettling in these areas. These settlements and resettlements of the population in the region took place in an unfavorable political climate in which survival and food independence were paramount³⁵.

Territorial Conflicts

Those we interviewed said that land ownership is a deep-rooted problem in the region, due to its historical development, and is made worse by the arrival of various mega-projects to exploit natural resources economically for the profit of various companies.

According to Puente de Paz, the indigenous communities "have not been living in this region for just 20 years, but for 100 years.³⁶ This means that they are entitled under the Supplemental Titling Act to register their lands as their property³⁷. However, in 1979 this right was revoked specifically for the population settled in this area by Decree 60-70, which declared the region and other areas forming part of the North Transversal Strip,³⁸ as an area of "rural development of public interest and national urgency." According to a study conducted by the Copenhagen Initiative for Central America and Mexico (CIFCA), the decree violates Article 67 of the Guatemalan Constitution and contravenes the Peace Accord on the Identity and Rights of Indigenous Peoples, leaving the titling of lands in the strip in legal limbo. However, the regulations allow persons outside of the communities to acquire titles, such as companies involved in dam construction, corn-flour production and oil palm cultivation for the production of biofuels. In other cases, titles cannot be disputed because of the Accord on the Resettlement of Populations Uprooted by the Armed Conflict (1994).³⁹

2.2. THE INDIGENOUS WOMEN'S ORGANIZATIONS OF THE IXCÁN

Social Web: Indigenous and Mixed Women's Organizations

In the municipality of Ixcán, a web of mixed organizations have developed with strong representation of indigenous women. Some of these organizations have been active since the armed conflict. A few examples of current organizations are Mama Maquín, Puente de Paz and the Association of Women Producers of the Ixcán (AMPI in Spanish). There is also a Municipal Women's Office (OMM in Spanish). All of these entities form part of the Coalition of Ixcán Women's Organizations (ROMI in Spanish). ROMI is made up of 60 women's groups, which include NGOs and community women's committees which, according to OMM, is an indication of substantial organizational development. "Three years ago, there were six groups, and since then women's committees have been created in the communities," said one OMM staff member.⁴⁰ These groups continue to engage in activities to raise awareness.

One of the members of AMPI we interviewed told us that many women began organizing as refugees planning their return to Guatemala. "In Guatemala, when the communities were isolated, there was not so much violence,"



35 CIFCA, "Proyecto Xalalá ¿Desarrollo para todos?". Belgium, 2008. PBI recommends consulting the studies cited for more detailed historical data, and general information about the Xalalá Project.

36 PBI interview with Puente de Paz.

37 See footnote 4.

38 This strip extends through the northern portion of Alta Verapaz, Huehuetenango, El Quiché, and part of Izabal.

39 CIFCA, Op. Cit.

40 PBI interview of the staff of the OMM. Playa Grande, Ixcán, May 2009.

she said. “We only had the Church and poverty, but no one talked about the rights of women. We did not even know that we could fight for something, that we had the right to make demands. Afterwards, with the armed conflict, it was not possible either, because if you “talked” you were considered to be one of the guerillas. As refugees, such as with the Communities in Resistance [CPR], we had more options and the idea of returning well organized motivated us. We did not want to return in a scattered way, but as a massive group, both men and women. This was a collective struggle. And it was at this moment in history that we women began to organize ourselves. [...] We have the right to assemble, but the husbands did not let us go to the meetings so easily at first. Now, after several years of work, women come to the meetings, accompanied by their husbands. It still generates mistrust.⁴¹

In addition to ROMI, there are other coordinating bodies for different organizations, such as the Municipal Women's Commission, coordinated by town councilor Reyna Cabá. The commission brings together NGOs such as Puente de Paz, the Parish Services Office, the Guillermo Toriello Foundation (FGT), and women's organizations such as AMPI and Mama Maquín, along with the OMM. In addition, the Referendum Follow-Up Commission brings together almost all civil society organizations in the municipality, including women's organizations.

Confronting the Region's Problems

Although the origin of the organizations differs, the persons we interviewed identified the same problems and working needs, and found that there was inequality in both gender relations and with regard to the impact from the arrival of the mega-projects. These factors also determined certain joint-action strategies.

Property ownership and the sale of land:

A specific example that demonstrates the inequality between the sexes is the issue of landownership. In Ixcán, the land is divided into small family-owned plots and into cooperatives, generally in the name of the men. There are not many large estates.⁴² According to ROMI, the sale of land for various reasons is a growing problem. One is the inability to pay mortgages taken out to pay the “coyote” who takes people illegally over the border to Mexico or the U.S. Another is pressure from companies cultivating oil palms who offer money and work in exchange for the land. ROMI says it is more difficult to sell land when it is jointly owned. “However, there are cases of sales in which the women are tricked into signing. In other cases, in which there is no joint ownership, the men sell without the consent of the woman [...] and afterwards the husband leaves the children and the women [...] without land [...] arguing that they are unable to work it.”⁴³

According to the OMM, the women are very conscious of the importance of the land for survival, as well as the consequences of its sale and the installation of mega-projects. “The land is like the women, because it takes care of us and feeds us,” said a member of Puente de Paz.⁴⁴ “If they sell all the land [...] they will have no place to grow their crops.”⁴⁵ For this reason, joint ownership is strived for. In the interviews, we noted a fear of reviving the past with the



41 PBI interview of the women of AMPI. Playa Grande, Ixcán, May 2009.

42 Idem.

43 PBI interview of the women of ROMI. Playa Grande, Ixcán, May 2009

44 Cit. PBI interview of Puente de Paz.

45 Cit. PBI, interview of OMM.

experiences of other communities in which the arrival of mega-projects led to violations of human rights. "And of course, we do not want to relive that," said one woman.⁴⁶

In Search of General Equality and in Defense of Nature's Assets:

The aforementioned organizations see their work primarily as a tool to support the efforts of the local communities, particularly women. "It is they who fight harder because they are thinking of the future of their family, of their children," said a member of the Rural Women's Alliance. "Machismo lives on in the communities, and it is worse where women are not organized."⁴⁷ Through workshops, discussions and radio broadcasts –applying the principles behind the multiplication effect– as well political empowerment, increased awareness and education, the participants learn about the positive and negative effects from the construction of a hydroelectric plant. According to Puente de Paz, there are women's committees in all of the communities with members trained to conduct their own awareness workshops and to continue educating the others. "And when they feel more prepared, they raise their voices without fear of expressing their ideas," said one member of the organization.⁴⁸

Despite the achievements, the women themselves know that their work has just begun. "There is still a lot to be done to raise the awareness of women, and we need to conduct workshops with the women and the men, striving for complementarity and the recovery of ancestral practices in defense of natural resources and the environment," a member of the Rural Women's Alliance.⁴⁹ Moreover, several organizations said the defense of natural assets unites them in a common struggle.

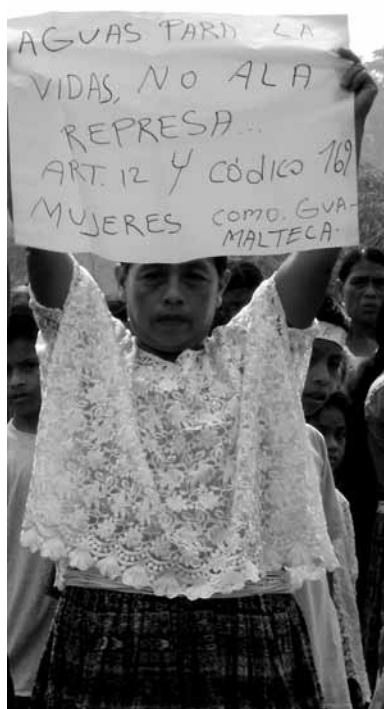
2.3. THREATS TO THE NATURAL ASSETS AND TERRITORY

The women's organizations we interviewed cited different threats to natural assets on their lands. The Xalalá dam project, oil extraction, cultivation of oil palms, the abuse of transgenic seeds and chemical fertilizers promoted by ProRural, as well as deforestation and water shortages.

THE XALALÁ PROJECT

30 Years of Planning

The Xalalá dam and hydroelectric construction project is part of a government development plan from the 1970s called the National Electrification Master Plan. The government defends this plan as necessary to meet the country's growing energy needs and cites the high cost of importing energy from petroleum derivatives. It also says it will bring development to the communities and promote tourism. The project was suspended in 1982 during the armed conflict, and resumed in the 1990s, and was boosted years later by the 2004-2008 Economic and Social Recovery Programme under President Oscar Berger. This plan established connections with the Puebla-Panama Plan (PPP) and the Central America Electricity Interconnection System (SIEPEC in Spanish). In September 2007, the government published a call to



46 Cit. PBI interview of Puente de Paz.

47 PBI interviews of women members of the Rural Women's Alliance, May 2009.

48 Cit. PBI interviews with Puente de Paz.

49 Cit. PBI interviews with Rural Women's Alliance.

tender for a large hydroelectric project⁵⁰. According to information provided to us by INDE, none of the initially interested companies submitted a bid⁵¹: “Due to the international crisis, the method of launching the Xalalá project is being studied, and on the basis of this decision new bidding conditions and the relevant terms of reference will be prepared,” INDE told us.⁵²

Specifications of the Xalalá Hydroelectric Plant

Installed capacity:	181 Megawatts
Annual energy output:	886 Gigawatts per hour.
Dam:	Roller compacted concrete
Height:	82 meters
Volume:	190,600 m ³
Elevation of dam crest:	285.00 (MASL)
Headwater elevation:	260.00 (MASL)
Tailwater elevation:	258.00 (MASL)
Area of reservoir:	7,5 km ²

Source: INDE, 1 June 2009

Lack of Information in the Affected Communities

On many occasions, the population located in the area directly affected by the Xalalá project has requested detailed information from INDE. According to the people interviewed by PBI, these requests for information were flatly rejected. On several occasions, INDE's general manager publicly stated that there is still no study available on the Xalalá project.⁵³ However, the document INDE provided to PBI states that it has hired consultant INGETEC S.A., which performs feasibility studies and research. Under the Information Access Law, PBI requested the relevant information from INDE. However, the institute was not able to indicate how many communities would have to be relocated and which lands would be flooded with this project. According to the information provided by INDE, the active involvement of all parties and timely information “is a challenge” not an obligation, the Xalalá product “could benefit [...], mainly those located in the area affected by the project.”⁵⁴

50 According to the bidding specifications, the dam is to be located at the confluence of the Copón and Chixoy rivers. The cost of construction will be USD350 million to USD400 million. The proposed method of financing is 80% foreign and 20% domestic capital, with the project executed by a company that is also responsible for the environmental impact study. The electricity will be sold to the national electric company, INDE, for 30 years, and after that the company will be transferred to INDE. Xalalá would be the second largest hydroelectric plant in the country in terms of capacity after Chixoy. During the construction phase of the Chixoy dam (1977-1983), acts of genocide were committed against indigenous peoples. This was documented by the Commission for Historical Clarification.

51 Including Unión Fenosa, Iberdrola, and Endesa, all of Spain, Enel of Italy and AES of the United States.

52 From INDE letter of 1 June 2009 responding to PBI's request for information.

53 On 15 June 2006, before community representatives at a meeting of the Municipal Development Board, Vice Minister of Energy and Mines Jorge Antonio García contradicted information provided by his ministry at the Latin American Leadership Forum in New Orleans in the U.S. on 28 March 2006 on this matter. Until that Forum, the information was unknown to Guatemalans, particularly the communities affected by the project.

54 Cit. INDE letter to PBI.



Municipalities affected by the Xalalá hydroelectric power plant project and communities located on the Chixoy or Copón rivers

- 1 Campamento Xalalá
- 2 Xalalá
- 3 Margaritas Copón I
- 4 Rumor de los Encantos I
- 5-6 Rumor de los Encantos II y Caserío Rumor II
- 7 Santa Marta Copón
- 8 Santa Elena Copón
- 9 Villa Linda Copón
- 10 San Pedro Cotijá
- 11 Venta del Cielo
- 12 Finca Chaylá
- 13 San Pedro Chaylá
- 14 Nuevo Asturias
- 15 La Maya
- 16 San Pedro Xalarocjá
- 17 La Libertad
- 18 Samultequén II

Source: Geoposicionamiento particular y análisis topográfico digital. Santiago Botón Simaj, "¿De qué sirve la luz, para quienes no quieren ver la luz?", Parish Services Office of Ixcán. Ixcán, El Quiché, January 2007



The Expected Impacts

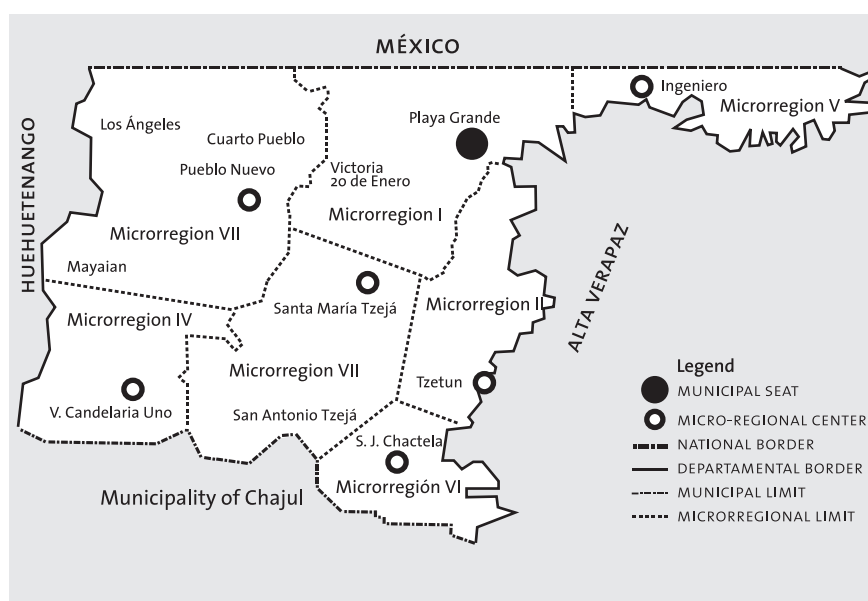
According to information provided to PBI by the local organizations themselves, the construction of the dam would directly affect 31 communities in three towns in two departments: the so-called Micro Region VI of Ixcán and Micro Region II of Uspantán, both in the Department of Quiché, and the Micro Region V of the town of Cobán, in the Department of Alta Verapaz. A total of 13,968 people would be affected by the following socioeconomic, cultural and environmental affects, among others:

- Loss of cropland or fertile lands, water sources and mountain reservoirs.
- Loss of fish due to pollution and other food sources that become trapped by the dam.
- Displacement (forced).
- Infrastructure problems caused by the rise in the water level (flooding).
- Emigration.
- Psychological effects on the communities.
- Harmful health effects from stagnant water.
- Splitting and destruction of the social fabric, destruction of sacred sites.

According to the statistics provided to us during the interviews for this report, the population that would be directly affected (by displacement, flooding, etc.) by the Xalalá hydroelectric plant in the three aforementioned municipal areas is virtually 100% Q'eqchi'. However, the communities that might be indirectly affected (by changes to the quality and volume of water in areas below the dam, ecological, micro-climate effects, etc.) include other multi-ethnic areas as well as the Q'eqchi'.

A study⁵⁵ published by the Spanish NGO Entrepueblos states the following: "Calculations using INDE's own data regarding the height of the dam show that the flooded area will extend some 41.5 kilometers along the Chixoy River, and some 16.4 kilometers along the Copón River, ending between Villa Linda Copón (Ixcán) and San Pedro Cotijá (Uspantán).

55 Entrepueblos, Guatemala: "Movilización en contra de la represa de Xalalá", http://epueblos.pangea.org/index.php?option=com_content&task=view&id=429&Itemid=2



Map of Ixcán micro-regions

Population	55.810 hab.
Rural population	49.642 hab.
Area	1.574,9 km ²
Rura population density ^l	31,5 hab/km ²
Average precipitation per year	2.632 mm
Average year-round temperature	32° C
Number of communities	141
Infant mortality rate	119/1.000
Illiteracy	78%
Distance from the capital	374 km

Source: Integral Development Plan of Ixcán 2003-2012, Municipal Government of Ixcán. Ixcán, El Quiché, July 2003.

The flooded area would occupy 8.95 square kilometers of the municipality of Ixcán, and 22.85 square kilometers of the other municipalities affected (Usphantán and Cobán), according to geopositioning studies conducted by students at USAC (Guatemala's University of San Carlos).

CIFCA's study concludes that the project would violate the right to life and cause environmental damage. CIFCA also notes that there has been a disregard for the right to information and the right to be consulted.⁵⁶

The Community Referendum

In April 2007, a Good Faith Community Referendum was held with 21,155 people participating and 89.73% voting against the construction of a dam and the operation of mines in Ixcán.⁵⁷ A representative of Puente de Paz said that women played an important role before and during the referendum. "In some communities, the mayors did not want to hold the referendum because they said it did not affect them, and the women pushed for the referendum," she said, noting that the women knew it was necessary because of the repercussions the dam would have for current and future generations. "If they make the dam, there will be no production afterwards," she said. "We won't be able to enjoy nature anymore."⁵⁸ The Ministry of Energy and Mines said it does not consider the popular referendum to be binding,⁵⁹ citing the legal precedent set in the Sipakapa referendum, which was declared non-binding by the Constitutional Court. However, the communities are not ready to accept this, according to AMPI. The organization is following up on the matter through a commission and are not ready to give up. "Some leaders will be paid, but not in all the communities," a member of AMPI said. "Some people will leave, or perhaps they will die because they do not want to leave their lands [...] but the people are not afraid."⁶⁰

56 CIFCA, Op. Cit., and Follow-Up Committee on the Ixcán Referendum, Op. Cit.

57 CIFCA, Op Cit.

58 Cit. PBI interview of Puente de Paz.

59 CIFCA, Op Cit., and Prensa Libre, 26 September 2007.

60 Cit. PBI interview with AMPI.

At the invitation of the communities, PBI acted as an international observer during the referendum as part of its follow-up work on the fight for the right to land, to territory and its natural assets, in accordance with ILO Convention 169.

The Oil

The region has been the target of oil exploration plans for more than 30 years. According to Guatemalan researcher Luis Solano, there was unsuccessful oil exploration in the Ixcán jungle in the late 1970s at a time when there were severe problems in the communities as well as guerilla attacks.⁶¹ In December 1985, the Government of Oscar Humberto Mejía Víctores granted a major concession to the U.S. company AMOCO. This allowed the company to continue exploring in the Ixcán, but it was also unsuccessful. In the mid-1990s, the U.S. company Triton Energy drilled a well, but was equally unsuccessful. The presence of Triton in the area drew protests from the various communities. One of the largest campaigns in the country's history to attract foreign investment to oil and mining fields took place under the Government of Álvaro Arzú (1996-2000).⁶² One company, PETROLATINA CORPS has since returned to the Ixcán. In 2005, during a visit by the Vice Minister of Energy and Mines, an incentive was announced for the development and use of several oil wells throughout the municipality with future exploration and operational contracts for crude oil in 80% of Ixcán territory.

According to people in the communities organized to follow up on the referendums, the negative impact of oil exploration and extraction has serious consequences on the lives of people, the communities and nature. These activities result in water pollution, which has severe effects on human health. Many species are lost as they flee the area, and vegetation is destroyed, which increases the erosion of the soil and reduces the productivity of the land. There is also an elevated risk of oil fires, explosions and spills. Other impacts cited from a socioeconomic and cultural perspective include the expropriation of lands and the displacement of people in the area of oil operations. This contributes to the destruction of cultural diversity and to impoverishment. Moreover, women's lives will be affected by a greater work load.⁶³

Other Threats to Natural Assets

Monoculture: Oil Palms

According to information provided by local organizations, important entrepreneurs have been coming to the region since 2008 and buying land to be used for cultivating oil palms in order to produce biofuels. According to OMM, Micro Region V is the area in which plots of land have been sold to these entrepreneurs. Local organizations believe that the people in these areas are willing to sell their land because of the economic conditions in which they live. "Since they are in a difficult situation, they prefer the money, and



61 Solano, Luis, *Petróleo y Minería en las Entrañas del Poder. Guatemala 2005*; and *Entre Pueblos*, Op. Cit. "In fact, the company PetroMaya left in 1981 on the recommendation of the armed forces, just before the insurgent war broke out in Ixcán [...]. In the municipality of Ixcán, the priest Guillermo Woods organized the cooperatives of Ixcán Grande and opposed the activities of the oil consortium PetroMaya [...]. In 1980, the cooperative prevailed in a lawsuit against PetroMaya for conducting oil exploration without the consent of the community."

62 Idem. The Mining Law was changed for this purpose, reducing the royalties that companies had to pay to the Government of Guatemala from 6% to 1%."

63 Follow-up Committee on the Referendum of Ixcán, Op. Cit.

they sell the land,” said one member of OMM, noting that the result of this is “the invasion and occupation of land at the heart of the municipal area, which has led to conflicts.”⁶⁴ Moreover, as an added incentive, the companies offer the constructions of roads, health centers, as well as support for local development projects. However, those we interviewed said the companies do not fulfil these offers in reality. The roads are built on private estates with limited access, the rivers are polluted and the forests destroyed.

Genetically improved seed and chemical fertilizers in monoculture:

In Micro Region II, maize is grown as a single crop. The Agency for Local Development in the Ixcán (ADELIXCÁN) has built a plant to process corn flour and sell it in Japan. “This type of cultivation promotes a form of exploiting the land that is unhealthy, which of course affects mother nature,” said a member of Puente de Paz.⁶⁵ The organizations we interviewed noted a tendency to use large tracts of land for this type of agrobusiness. They also noted that the use of genetically improved seed and chemical fertilizers has increased since 2000. The current government has implemented the ProRural programme, which promotes this type of land cultivation. According to OMM, the improved seed are a product of big business, as are the fumigation products. “All of this is part of the free trade agreement with the U.S., as the agrochemicals were one of the tariff-free products. The seeds also come from other countries, but Guatemalan seeds are not exported because of the very strict phytosanitary measures.”⁶⁶

One of the most serious consequences mentioned by Puente de Paz is the deterioration of the land. “It is ruined by the use of fertilizers and agrochemicals,” a representative of the organization said. “Not even the herbs that our ancestors used to eat grow any more.” AMPI pointed out the affects on human health. “There is more illness than before due to the use of fertilizers, which worsens the consequences from the use of explosive chemicals during the armed conflict in Ixcán.” Moreover, the abuse of improved seed entails the impoverishment of people who, once they start using the modified seeds, are obliged to continue and must seek loans from the different financial agencies (BANRURAL, ADELIXCAN, ProRural) to purchase the seed and the chemicals. “They wind up selling the land in order to pay back the debt,” said a representative of ROMI. “Many farmers have lost their lands due to the use of transgenic seeds. This consumption is promoted by the government, which gives away the seeds but we know that it is simply about economic and political interests.” The ROMI representative also said the use of chemicals in general is a problem. “We should use organic fertilizers, not pesticides. The mentality for using alternatives to chemicals still does not exist.”⁶⁷

To address this problem, the Commission for Women, along with other women's organizations, have scheduled and carried out workshops for awareness and education about the use and the abuse of agrochemicals, their effects on the land, and the proposal for sustainable management of land according to the Maya cosmovision.

64 Cit. PBI, interview with OMM.

65 Cit. PBI, interview with Puente de Paz.

66 Cit. PBI, interview with OMM.

67 Cit. PBI, interview with ROMI.



Uncertainty about the Privatization of the Water Supply and the Problem of Deforestation

Deforestation and the resulting water shortages were also repeatedly cited as grave concerns in the interviews we conducted. "Some communities go without water in the summer", a representative of ROMI told us. "In these communities, people wash the clothes in the river, which is the women's work. The rivers are surely polluted but we do not know how badly, since there are no studies indicating the level of pollution."⁶⁸ In a local radio announcement, ROMI said people are afraid that water will be privatized. "If all of this is privatized, it is we women who are going to suffer. Water is a public resource not a commodity".⁶⁹

Several of the people we interviewed said the very same communities have been accused of taking part in the degradation of nature with excessive removal of trees to use the land for subsistence agriculture and cattle raising. This has been attributed to a loss of ancestral values. There are still many that continue to respect those values, however. "There are communities that still have that respect, that are going to request a permit to fell a tree, and they hold ceremonies when they plant and harvest the maize".⁷⁰

2.4. DEMANDS MADE ON THE STATE BY THE ORGANIZATIONS

The Rural Women's Alliance told PBI that the current situation exists because of a lack of political will, not just in Guatemala, but at the international level as well. "It is a government strategy," a member of the organization said. "With the mega-projects, they destroy the subsoil, harm the environment, there is pollution, families are displaced. It is not longer done with bullets, but with specific strategies to increase poverty and let people die of starvation. The problem is that we are isolated, civil society is weak. Regarding the indigenous peoples, they do not combine their strength, which gives the government more power."

The demands made on the Guatemalan government by the organizations of the Ixcán are as follows:

- The introduction of real sustainable development, without conditions, which would include: infrastructure for healthcare, education, roads in the entire region, not just in the center of the municipality, and the personnel necessary to run them properly. They demand fulfillment of the right to food, an adequate standard of living and access to justice. They reject the type of development proposed by corporations, which "does not propose benefits to the communities, who are the losers, but for the company, which is the winner."⁷¹
- Legal recognition of the ownership of lands inhabited by the communities for decades, and equal opportunities for accessing land for both men and women.
- Guarantee of the right to be freely consulted and informed.
- Recognition of the Good Faith Community Referendum of 2007.

68 Idem.

69 Excerpt from radio announcement by ROMI.

70 Cit. PBI, interview with Puente de Paz.

71 Idem.



3. THE OPPOSITION OF THE KAQCHIKEL COMMUNITIES OF SAN JUAN SACATEPÉQUEZ

3.1. THE TOWN OF SAN JUAN SACATEPÉQUEZ, DEPARTMENT OF GUATEMALA

Almost a quarter of the country's population, or approximately 3 million people, lives in the Department of Guatemala, which covers an area of about 2,200 square kilometers. A sixth of this department's population lives in poverty. San Juan Sacatepéquez is a large municipality. In an area of 242 square kilometers, it has 42 hamlets and 3 villages.⁷² It has a total population of 160,000, according to the 2002 census. More than half of its residents live in rural areas, and more than half of those who do are women. "About 82% of the municipal population is ethnic Kaqchikel of the Mayan People, and the rest are of mestizo origin," said San Juan Sacatepéquez Mayor Marta Sicon Coronado.⁷³ In an interview with PBI, representatives of AGIMS said the indigenous culture is disappearing in the heart of the municipality. "Because of its proximity to the capital, the town has undergone a process of cultural assimilation, more evident in the urban center than in the communities, which has accelerated the loss of indigenous identity that began in colonial times and was worsened by the internal armed conflict," said a member of the organization.⁷⁴ Despite this decline in the urban center, the rural indigenous communities have learned how to preserve their own ancestral organizational and cultural ways.

AGIMS says the local economy continues to be based mostly on the cultivation of flowers and the manufacture of furniture, among other sectors. "Women cut and prepare the flower bouquets for sale, and men sometimes work in masonry and sometimes in the cultivation of flowers as well," said one member of AGIMS. The land is divided into small plots owned by the farmers, who used them for flower production and subsistence agriculture. There are also properties that are held by large landowners, as in the hamlet of San Juan Ocaña, where the cement plant was built. These lands belonged to a member of the military who sold them and has now left the country. In most cases, the deed is in the name of the "head of household," which is generally the man."⁷⁵

Basic public services at the local level, concerning education as well as healthcare, are considered unstable and inefficient. For example, access to potable water in this past year was a real problem for communities outside of the urban center. AGIMS says the provision of these services has been politicized, and winds up depending on the good will of the local government. Neither legal instruments nor budget increases have been able to improve the situation of the most disadvantaged residents. The municipal budget of San Juan Sacatepéquez was increased by Q3 million (about USD375,000) in 2008 over the previous year.⁷⁶ In May 2009, the mayor said that the town was almost through paying off the Q8million (USD1million) in debt that the previous mayor left, plus the Q1.5million (USD187,000) owed to the Guatemala Social Security Institute (IGSS). San Juan Sacatepéquez is in this situation despite the fact that it, like other towns in the Department of Guatemala, is surrounded by a wealth of natural resources. The department has granted

72 Information from the webpage of the Guatemalan Tourism Institute (INGUAT).

73 PBI, Interview of Marta Sicon Coronado, Mayor of San Juan Sacatepéquez. May 2009.

74 PBI interview of the women of AGIMS. San Juan Sacatepéquez, Guatemala, May 2009.

75 Idem.

76 Idem.



83 permits for the exploitation of the region's natural assets (71 operating permits and 12 exploration permits). Two exploration and five operational permits have been issued for San Juan Sacatepéquez.⁷⁷

3.2. THE KAQCHIKEL AND THE CEMENT PLANT PROJECT

The History of a Social, Environmental, Political and Economic Conflict

The Guatemalan company began working on the San Juan project in 2006. This project entails the construction of a cement plant and location of a quarry on the San Gabriel Buena Vista estate and in the villages of San José Ocaña and San Antonio las Trojes I and II. The Guatemalan company Productos Mineros S. A., a subsidiary of Cementos Progreso owned by the Novella Torrebiarte family,⁷⁸ holds an 80% stake in the project, with the other 20% held by the Swiss transnational company Holcim, the largest cement producer in the world.⁷⁹ The three towns currently affected by the project are San Raimundo in the Department of Chimaltenango, and San Juan Jilotepeque and San Juan Sacatepéquez, both in the Department of Guatemala. Under the project, there is a proposal to build a 4km road. The concession has already been granted by the government and the new road will connect San Juan Sacatepéquez and Santo Domingo Xenacoj to the Inter-American Highway in a public-private partnership.⁸⁰ According to the National Coordinating Body of Indigenous and Campesino Organizations (CONIC) all of this took place despite the opposition of the town of Xenacoj, which overwhelmingly rejected the project in a referendum held in its communities, even opposing the passage of the machinery necessary to build the road.⁸¹

Good Faith Community Referendum

In January 2007, several communities of San Juan Sacatepéquez asked the town government to hold a referendum on the advisability of building a cement factory. However, the referendum date was put off until it was finally canceled by town officials. In response, the communities affected by the project decided to hold the referendum through their respective community development boards without the backing of the town government. The referendum was held and 8,950 voters participated, with just 4 supporting the cement plant. The Municipal Council and the mayor promised to take the results of the referendum into account before granting any construction permits, but in the end, according to the communities who held the referendum, the vote was ignored.⁸²

At the end of 2009, the Constitutional Court heard the case presented by the communities of San Juan Sacatepéquez, which alleged that a decision by municipal authorities to cancel the first referendum was unconstitutional. The court ruled on 21 December 2009 that while states like Guatemala, which are signatories to ILO Convention 169, are obliged to ensure that there is an efficient process to consult the indigenous communities in their countries, a referendum does not equal veto power over decisions taken by government bodies on matters over which it has jurisdiction, including deci-



77 Information provided to PBI by the Ministry of the Environment and Natural Resources. Guatemala, May 2009.

78 Cit. *El Observador* No 14.

79 PBI-Guatemala Alert of July 2008.

80 <http://www.newsinafrica.com/noticia.php?idnoticia=2577>.

81 PBI interview of Herlinda Raxjal Méndez, representative of CONIC for San Juan Sacatepéquez. Guatemala, June 2009.

82 Report on the good faith community referendum presented to the municipal government by the 11 communities in opposition. November 2007.

sions on the authorization and control of mining exploration and operation. Therefore, the court recognized the collective right of indigenous peoples to be consulted as part of their rights under the Guatemalan constitution.⁸³ However, while it ruled that the state is obliged to take the appropriate legal measures to guarantee and verify the results of the vote, the court said the state is not bound by the results unless some agreement is reached on the basis of the referendum and negotiations. “The dissent of the indigenous peoples does not bind the government bodies that are responsible for the projects in question,” the court ruled.⁸⁴

The First Human Rights Violations Linked to the Referendum

Since the referendum was held, residents of San Juan Sacatepéquez have complained of numerous human rights abuses. According to a report prepared by the Guatemalan Human Rights Ombudsman's Office (PDH in Spanish), members of the National Civil Police (PNC) are accused of committing acts that violate the right to dignity, order, security and equality in 2007.⁸⁵

A Dialog Begins

In early 2008, a dialog was established in the national level. Participating in this dialog were the Office of the United Nations High Commissioner of Human Rights (OHCHR), the PDH, the Rigoberta Menchú Foundation, representatives of CONIC, representatives of the company Cementos Progreso and, as guests, Swiss Ambassador Jean-Pierre Villard, and a representative of the Embassy of Germany. The purpose of this dialog was to make progress toward a resolution of the conflict. Since then, the talks broke down several times because the communities involved did not believe that their positions and demands about the San Juan project were being considered.

The Conflict Worsens and the State Declares a State of Prevention

On 21 June 2008, a group of people attempted to enter the cement plant premises in an attempt to stop the company machinery from entering, and allegedly to burn it. A day later, in the early hours of 22 June, a resident of the town, Francisco Tepeu Pirir, was murdered under circumstances that have still not been explained. After the murder, and on the basis of the violence in San Juan Sacatepéquez, the government of Álvaro Colom declared a State of Prevention.⁸⁶ On the same day, about 1,000 police officers and the same number of soldiers entered San Antonio Las Trojes accompanied by personnel from the Presidential Human Rights Commission (COPREDEH) and the Peace Secretariat (SEPAZ), and arrested 43 people.⁸⁷ During the two weeks that the State of Prevention remained in effect, the PDH received various complaints from residents about abuses committed by the security forces. Among the abuses reported were demands by the security forces and the army to be fed by the families, restrictions on free movement and offences against women. The PDH also received reports of detentions and of raids



83 Miranda, U. G., *La consulta: es una obligación del Estado y un derecho colectivo de los pueblos indígenas de rango constitucional*, COPAE, at <http://resistencia-mineria.org/espanol/files/documentos/ResumenSentenciaSJ.pdf>

84 Idem.

85 Human Rights Ombudsman's Office (PDH), “Acciones realizadas por la PDH en el caso Proyecto fábrica de cemento en el municipio de San Juan Sacatepéquez”, Informe Ejecutivo Preliminar. Guatemala, June 2008.

86 Article 151 of the Guatemalan Constitution and the Law and Order Act of 1965.

87 These detentions were illegal according to the Congressional Human Rights Commission because they occurred one day before the State of Prevention took effect upon being published in the State Bulletin.

without warrants from the courts. The police and soldiers stayed in the area beyond 7 July 2008, when the State of Prevention officially ended.⁸⁸

The Company's Position

Despite the results of the community referendum and the pledge of the town government to take them into account before granting any permits, the construction of the plant and quarry continued.

In February 2009, seven indigenous women were injured in an extremely violent incident related to the cement plant conflict. According to the complaint filed with the Public Prosecutor's Office (MP in Spanish), armed men boarded a bus and separated the cement plant employees from the members of the community who supported the closure of the plant. "Once they had identified the latter, they set fire to the bus, struck the women, doused them with petrol and threatened to burn them".⁸⁹

Negotiations Break Down Again

In March 2009, the aforementioned dialog was suspended again. The cement plant published a full-page ad stating its position. "Various sectors have called for the dialog to resume and the conflict to be resolved in this way," the ad said. The cement plant has issued public statements expressing its openness to the dialog, although it has made clear its interest in continuing its project."⁹⁰ The Kaqchikel communities of San Juan Sacatepéquez have officially stated their own willingness to continue the talks and resolve the conflict through legal and democratic means and reach an agreement beneficial to all.

However, the suspension of the talks in March 2009 remained in effect on the insistence of local community leaders, who said the company continued to work on construction of the plant despite complaints filed with government authorities participating in the negotiations. The community leaders said they would not resume negotiations while the people who were illegally detained continued to be held without charges, and until environmental impact studies have not been completed and received by the Ministry of the Environment and Natural Resources.⁹¹

The Role of the News Media

Since the government declared a State of Prevention in the town of San Juan Sacatepéquez several opinion pieces have been written in Guatemala's newspapers. Opponents of the plant have been characterized as rebellious and obstinate by some newspaper columnists.⁹²

Other examples of the role of the news media in the conflict are the reports published about a press conference that was called by organizations sup-



88 According to women in the communities opposing the plant, the police and soldiers stayed after the State of Prevention was lifted, and this presence was still visible in May 2009, when these interviews were conducted, with vehicles and helicopters patrolling the area.

89 PBI interview of Carmela Curup, member of the Association of Mayan Lawyers and Notaries of Guatemala (AANMG). Guatemala May 2009.

90 "Comunicado de Cementos Progreso", *El Periódico*. Guatemala, 4 July 2008.

91 Conclusions issued by leaders of the 11 communities of San Juan Sacatepéquez opposed to the plant, and by the Rigoberta Menchú Foundation, which has supported them. Guatemala, May 2009.

92 For example, Humberto Pret and Alfredo Kalstchimitt, who write opinion columns for the daily *Prensa Libre*.

porting the community.⁹³ These groups called the press conference to explain the facts surrounding the aforementioned attack on the bus. However, according to the Association of Mayan Lawyers and Notaries of Guatemala, radio and newspaper accounts contradicted the version given in the press conference and did not mention the complaints filed with the MP by the women who were attacked.⁹⁴

The women we interviewed in the San Juan Sacatepéquez communities opposed to the cement plant said there is a campaign in the news media to discredit them. “They tell people not to come to the communities because the people are terrorists and will lynch them. This hurts us. They are trying to smear the reputation of the entire community of San Juan Sacatepéquez.”⁹⁵

3.3. ENVIRONMENTAL, SOCIAL AND CULTURAL EFFECTS

During one of PBI's first visits to the area affected by the construction of the cement plant, we observed some of the effects described by the women interviewed. The plant is located a few meters from several Kaqchikel families that have been living there for many years. PBI observed how construction has begun and the neighbors must live with the dust, pollution and noise from the trucks.⁹⁶

Environmental Effects

The women we interviewed in the 11 communities affected noted the following environmental effects:

Water. The people of these communities fear that water use by the cement plant will create more water shortages. “The company still says there will be enough water here, and they tell us that they will not touch the public water supply because the company has its own wells,” said one woman in the community. “I would like to know how this will be verified? In reality, we don't know.”⁹⁷

Air. The plant operations involve the constant emission of dust due to digging and the transport of material. “At 5 in the afternoon, you can see the dust in the air,” said one woman. “At the health clinic, the doctor tells us that some of the problems are caused by the dust, but what can we do?”⁹⁸

Biodiversity. According to those we interviewed, the effect on the ecosystem is already visible. “Around the plant in San Raimundo there are no more lo-

93 The Association of Lawyers and Notaries of Guatemala (AANMG), the National Coordinating Body of Guatemalan Widows (CONAVIGUA) and the Rigoberta Menchú Tum Foundation (FRTM).

94 One version is found on the website of Radio Emisiones Unidas, 12 February 2009: “Early Thursday morning, a bus that was headed to the center of San Juan Sacatepéquez from the community of Las Trojes was set afire by local people. Three people were attacked for supporting the construction of the cement plant, according to information gathered at the site by this news agency.”

95 PBI interviews with women of 11 communities of San Juan Sacatepéquez opposing the cement plant. Guatemala, May 2009.

96 PBI visit to the area affected by the construction of the cement plant in San Juan Sacatepéquez. Guatemala, May 2009.

97 Cit. PBI interviews with women of 11 communities of San Juan Sacatepéquez opposing the cement plant.

98 Idem.



cal trees," said one woman. "They were substituted after the start-up with eucalyptus, which seriously affect the fertility of the land."⁹⁹

Land. Several people we interviewed complained that the plant under construction affects the fertility of the adjacent lands.

Socioeconomic and Cultural Effects

The women of AGIMS and CONAVIGUA that we interviewed noted the following social, economic and cultural effects of mega-projects:

Health effects. The children develop symptoms such as coughing and respiratory problems. Others develop lesions on the skin. According to the local physician, these problems are directly attributable to the effects produced by the cement plant.

Damage to crops and the local economy. "Before, we grew maize, coffee, but not any more," said one woman. "The dust affects the crops because the coffee plant is covered with dust and does not bear fruit. The same happens with the flowers. There is so much dust on the plastic covering protecting the flowers that the sun does not pass through. We have to clean them each week to avoid losing the crop."

Impact on local infrastructure (houses). In the community of Santa Fe Ocaña, the houses tremble when the workers are digging in the mine with the machinery.

Tearing of the social, family and community fabric. In the communities affected by the construction of the cement plant, the population has been split into two groups: those in favor and those against the cement plant. "There is a climate of mistrust," said one woman. "We no longer believe in people. The company has divided the community, and it has done this through the family."

Restriction of Basic Liberties (social control). On some public roads, such as those leading to Las Trojes I and II (where the cement plant is located), we are asked for identification," said one woman we interviewed. "Each week, helicopters fly over the villages, and the children, who are already traumatized by the experience during the State of Prevention in June of 2008, hide because they are afraid it is happening again. We are sure that they know where the leaders of the community live. Once, a representative of a state institution came and showed us aerial maps of our homes. They know where we live.

Increased violence. Since the cement plant came to our communities, there are more deaths and even more domestic violence.

Disrespect for the ancestral values of the Mayan people. From the perspective of the Maya cosmovision, the exploitation of a hill is something that is completely wrong," said one woman. "The hills have an ancestral value for the Mayan people. In the case of Las Trojes, they are defending the Machón Hill.



99 Idem.

What happened to the 43 people detained during the State of Prevention?

On 13 January 2009, the first court hearing was held for the 43 people detained during the State of Prevention declared in San Juan Sacatepéquez on 21 June 2008, and they were finally charged with several offenses (illegal assembly and protest, causing a disturbance, resisting authority). Although the charges were dismissed in this hearing, the state prosecutor challenged the decision, and the case went before an appeals court. At the date of this report, four people accused of the murder of Francisco Tepeu Pirir remained in jail.

One of those accused of the murder is the husband of one of the woman we interviewed. "My husband has been held for seven months," she told us. "He works on the Chimaltenango road and they arrested him in front of all of his friends. From 7 October 2008 until now (May 2009), I have been left alone with seven children. Two of the children are in school, but not the others. I cannot keep them in the school. The materials that the teachers require is very expensive, and I also have to find money to pay for all the food."

The only woman to be detained told us she did not suffer in jail, but her family suffered a lot. Her brother does not want her in the house because she supports the community (opposing the plant). She says he attacked her with a machete the last time she saw him, injuring her head and hand. She says she was accused of killing Francisco Tepeu, but she had nothing to do with it. She only supports the community and takes part in the meetings.

3.4. KAQCHIKEL WOMEN'S ORGANIZATIONS: THE STORY OF A COMMUNITY'S STRUGGLE

In the case of the San Juan project, the information PBI gathered in interviews indicates that organized opposition originated in the 11 communities affected by the construction of the cement plant. In addition, these communities have received and continue to receive support from other civil society organizations at the local and national level, both women's as well as mixed organizations.

KAQCHIKEL WOMEN IN THE COMMUNITY OPPOSITION MOVEMENT

"We are resisting because the companies have begun measuring the lands without permission. This company came to divide us, which is why we started to unite," said a Kaqchikel woman of the community.¹⁰⁰

The Kaqchikel women are part of the mixed movement called Q'amolo Ki Ajsanjuaní – San Juan People Unite. The 11 communities of San Juan Sacatepéquez who have stated their opposition to the plant also form part of this movement. It was created due to the lack of recognition by local authorities of the Good Faith Community Referendum in which voters overwhelmingly rejected the cement plant.

Their Strategy

The opposition strategy is based on a model of political, social and legal activities. At the political level, they have contacted representatives of international finance institutions and groups, such as City Bank, which they thought

100 PBI meeting with representatives of the communities in opposition.



might be interested in financing the San Juan project. The purpose of these meetings is for the community to share its experiences with these private entities and try to persuade them not to grant financing for the execution of the project under the current conditions.

In addition, the community continues to seek political alliances on the national and international level, and receives a lot of support from the Rigoberta Menchú Tum Foundation.¹⁰¹

Regarding social activities, the people, and particularly Kaqchikel women, have an important role. "They have maintained different forms of opposition, including marches, sit-ins and press conferences," wrote one periodical.¹⁰²

Finally, at the legal level, they receive advice from the AANMG, having exhausted all administrative and criminal recourse before the national courts. Aware of their limitations, they have decided to present their case before the Inter-American System of Human Rights Protection.¹⁰³

Obstacles

Some of the obstacles faced by the communities were explained to us by Herlinda Rajxal Méndez, representative of CONIC in San Juan Sacatepéquez. "Women are actively involved, but they continue to be involved at another level than men," she said. Despite exceptions, such as the village of Cruz Blanca, she said "women do not form part of the decision-making structure, such as COCODES, auxiliary mayors. And when they do, they feel very limited by their family obligations."¹⁰⁴

Involvement

For the women, the reasons behind their involvement are clear: "Women are the ones who fight for our children, those who fetch the water, those that cultivate the land," said one woman we interviewed. "Some say it is because we see our husbands, and we fight for them, but that is not the way it is. It is because of the illnesses of our children, and for the suffering of our husbands."¹⁰⁵ Moreover, the strength of the women of San Juan is recognized by other, mixed organizations such as the Committee for Campesino Unity (CUC). "They have a strong grasp of the issues and an ability to empower that is very strong and out of the ordinary," said a member of CUC.¹⁰⁶

SAN JUAN WOMEN'S ASSOCIATION (AGIMS)

This association was founded in 2001 with the support of the women's programme of the Center for Human Rights Legal Action (CHRLA) and the participation of five women community leaders from San Juan. There are currently 400 women from 15 villages and hamlets (65 communities in all) who belong to the organization. The majority are Kaqchikel. Four of the women are mestizo.



101 Idem.

102 Cit. *El Observador* No 14.

103 Cit. PBI interview with Carmela Curup, AANMG: "The only thing they achieve with this approach are recommendations to the State that include indemnification, other lands, but not the departure of the company."

104 PBI interview with Herlinda Rajxal Méndez, CONIC representative for San Juan Sacatepéquez. Guatemala, June 2009.

105 Cit. PBI interview of women in the 11 communities of San Juan Sacatepéquez opposing the construction of a cement plant.

106 PBI interview of Irene Barrientos, member of CUC. Guatemala, May 2009.

Their Main Areas of Work

Their work focuses on human rights, citizenry and the participation of women, support for women who are victims of domestic violence, and the restoration of the Mayan cosmovision. The defense of natural resources is not a central part of the group's work.

Obstacles

The main obstacle confronting the organization with regard to defending natural resources is funding. The lack of funding limits the organization's ability to conduct campaigns of awareness and its capacity to organize and remain involved in a conflict such as that of San Juan Sacatepéquez. For example, the women we interviewed mentioned the lack of adequate security measures (such as security cameras for the office, legal advice and support) as one of the reasons for which it has distanced itself from the case.

ASSOCIATION OF AUTONOMOUS WOMEN OF XENACOJ (MAUX)

This association was founded in 2007 and has 75 members in the town of Xenacoj. The group was still in the early stages of organizations by 2009. It is affiliated with the Sector de Mujeres, which offers political training courses in which some members of MAUX talked part in courses at the Political Education Academy. As this report was being prepared, the group was developing activities such as support for the families of the deceased, for people who are ill, and political training for women.

Although Xenacoj is one of the towns affected by the San Juan project, the members of MAUX do not receive a lot of information on the effects described by the other organizations interviewed, and emphasize the situation of poverty in which the town lives.

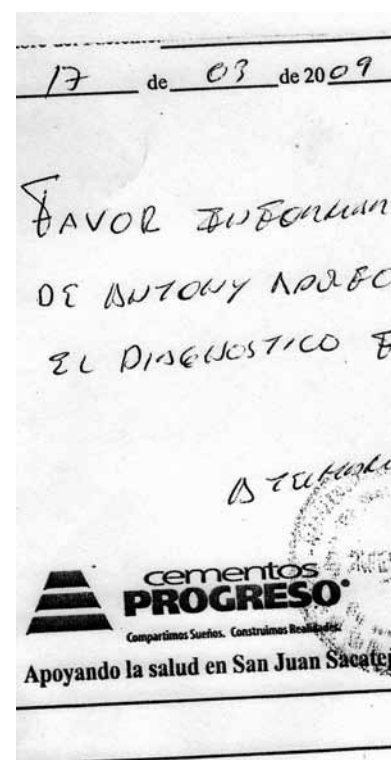
3.5. DEMANDS OF THE COMMUNITIES AFFECTED

Demands on government

- The communities demand that government develop national and local policies to respond to the needs of indigenous women, including fulfillment of ILO Contention 169 on Indigenous Peoples and Tribes in Independent Countries by enforcing the Law on Consulting Indigenous Peoples and responding to the results of the Good Faith Community Referendum in the communities of San Juan Sacatepéquez in 2007. "The government is not responding to the needs of the Mayan people, said a member of AGIMS. "There are no public policies that respond to the needs of the indigenous people."¹⁰⁷
- They also demand that the government guarantee access to information related to the construction of the cement plant. The only information disclosed about the project was distributed by the company in the center of town. "However, government bodies (such as the Ministry of Health) continue giving publicity to the company."¹⁰⁸
- They demand that the company be required to deliver the full environmental impact report to the Ministry of the Environment and Natural Resources in compliance with the Mining Law, and to suspend the mining concession if it does not. The communities demand that the municipal government clarify these issues with the relevant ministries and share the information with the communities.
- They demand that the government guarantee access to swift, transparent and impartial justice for the aforementioned people who were detained,

107 Cit. PBI interview of AGIMS.

108 Idem.



including those who have been released and are awaiting a court hearing. And they demand that the security of those being held be guaranteed. Moreover, they demand that the government respect the ethnic and cultural origin of these people at all times.

Demands on the private sector

On Cementos Progreso: To stop construction work on the cement plant until an agreement is reached with the communities affected.

On potential financiers: Listen and take into account the opinions expressed by the communities affected by the San Juan project.

On the Swiss company Holcim: Monitor compliance with the company's codes of conduct, ensuring that the projects in which they have a stake respect the human rights of the local population in accordance with international conventions and local laws.

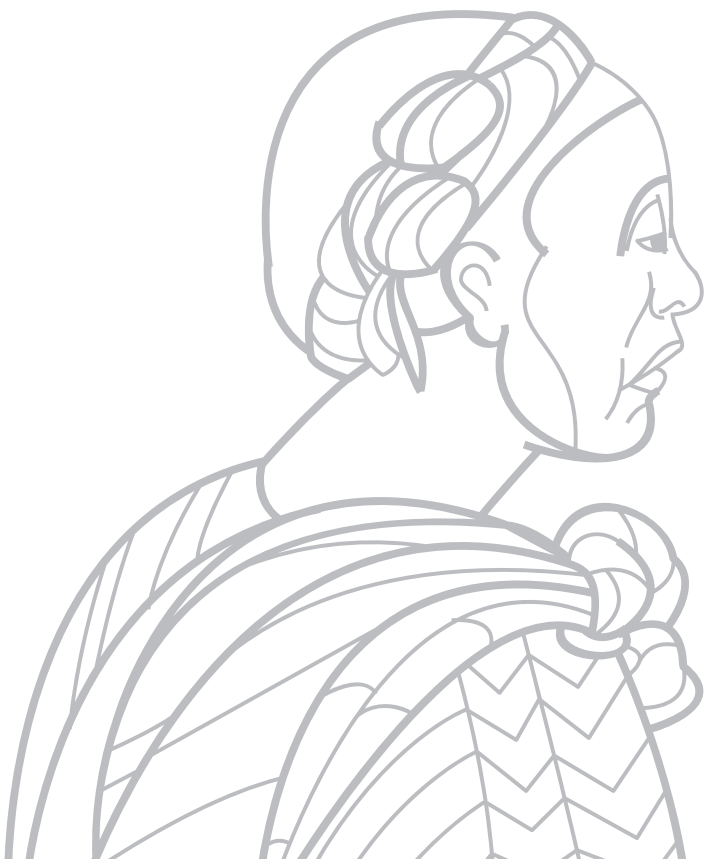
On the international community

To stay on top of the situation of the Kaqchikel communities of San Juan Sacatepéquez, supporting the efforts of indigenous women's organizations in the defense of natural assets.

3.6. PBI PRESENCE AND ACCOMPANIMENT

PBI began accompanying Q'amolo Ki Ajsanjuani – San Juan People Unite in December 2009 in response to a petition from the organization after several of its members received threats or were being followed. In July 2008, PBI had already expressed its concern about the conflict in San Juan Sacatepéquez, publishing and distributing an alert to call attention to the situation and the violations of human rights. We were able to follow the situation to a large extent because of our accompaniment at the time of the Association of Mayan Lawyers and Notaries of Guatemala (concluded at the end of 2009), which provides support to the communities of San Juan Sacatepéquez.

Exploitation of Natural Assets: Policies, Impact and Opposition



1. THE SITUATION OF THE INDIGENOUS PEOPLES

According to a report by Mairin Iwanka Raya on the situation of indigenous women, indigenous peoples have been fighting for centuries against genocide, displacement, colonization and forced assimilation, and have preserved their culture and identity. Due to continuous harassment, they have been marginalized and have been alienated from state and private policies. Currently, their human rights and their survival are being threatened due to policies based on racism and exclusion. Governments and corporations vie for control of limited natural resources, much of which are located in indigenous territories.¹

Rodolfo Stavenhagen, UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, wrote that indigenous people are not offered the opportunity to be involved in their own development, and they are still considered the objects of policies designed by others but not subjected to them.²

This general international political-economic situation has an influence and is reflected at the national level in the fulfillment of individual and collective human rights of indigenous women.

1.1. INTERNATIONAL POLICIES

According to a variety of studies, the political and economic model of the families and the elite that form part of Guatemala's oligarchy is being rapidly restructured in coordination with foreign capital. This new model is primarily based on the accumulation of capital in mega-projects – e.g. mining and oil operations and monoculture for oil palms and sugar. The bases for this process were established more than 20 years ago with the crisis in traditional export agriculture and monoculture such as cotton and coffee, along with the application of the structural adjustment programmes (PAEs in Spanish). These programmes brought great changes to international finance policies toward so-called

¹ Iwanka Raya, M., "Indigenous Women Stand Against Violence, A Companion Report to the United Nations Secretary General's Study on Violence against Women." 2006.

² UN, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen. November 2007.

developing countries. These changes included the streamlining and reduction of state spending, the deregulation of business with a focus on economic profits in direct export and the exploitation of natural resources, following the lifting of restrictions on imports, the deregulation of the financial sector, which led to a multiplication of banks and financial institutions and agencies.³

In the current stage of economic globalization, local and international civil society is following the strategic plans and the activities of transnational capital closely, along with the policies proposed and enforced by foreign governments and entities. The situation described in the previous paragraph is illustrated by the following examples:

The Puebla-Panama Plan (PPP), now called the **Mesoamérica Project**.⁴ As its website explains, this is a plan that includes nine countries – Belize, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama – and involves eight mega-project initiatives, including an interconnected electrical grid, called the Energy Integration System for Central America and Panama. The System for the Interconnection of Electricity Networks of Central American Countries (SIEPAC) was established to create the capacity to generate electricity in one country and sell it to others. It would also connect Guatemala with Mexico and Belize.⁵

The Dominican Republic, Central America Free Trade Agreement. (DR-CAFTA). According to Rights in Action, the investment protection clauses in free trade agreements restricts the options of the communities, regions and countries by establishing what type of investments, projects or strategies are better for the country's development and the needs of the population.⁶ According to the magazine *El Observador*, the competitive demands that trade agreements such as this one or the Mesoamerica Project impose are evident in Guatemala "in the objectives defined by the country's influential entrepreneurial, industrial and agrobusiness sector" and these objectives are closely tied to the restructuring of the energy plan announced by President Álvaro Colom in May 2008.⁷ "Introduced as an innovative proposal, the government announcement did nothing more than resume and continue to follow the steps initiated by the administration of Óscar Berger: to transform the energy grid to attract a fresh and vast array of capital investment, primarily foreign, for hydroelectric projects and coal-fired power plants," wrote *El Observador*. Of course, this relationship involves the interests and capital of the oligarchy and the corporate economic groups that have been trying to invest in power generation."⁸

European Union Central American Association Agreement (EU-CAAA). According to the information on its website, the EU-CAAA entails mutual commitments in three complementary areas or pillars of the agreement: public dialog, cooperation and the commercial pillar.

3 Zabalo, P., "Entrada PAE", en Karlos Pérez de Armiño (dir.): "Diccionario de acción humanitaria y cooperación al desarrollo", Icaria editorial/Hegoa. Barcelona, 2000: "The structural adjustment programmes follow an extremely orthodox concept of the political economy that would be dubbed the "Washington consensus" by its promoters years later, implying its universal acceptance by economic development experts."

4 In 2008 the PPP was renamed the Mesoamerica Integration and Development Project or the Mesoamerica Project. "The intention of the new name is to rejuvenate the PPP, although its purpose is the same: to integrate and adapt all of the territory from southern Mexico to Colombia to serve the great capital. Of the more than 100 economic projects in existence when the PPP started in 2001, only 20 focussed on energy, electricity, health, education, telecommunications, biofuels, roads and housing." Zunino, Mariela and Pickard, Miguel, *Ciudades Rurales en Chiapas: Despojo gubernamental contra el campesinado*, N° 571, CIEPAC. San Cristóbal de las Casas, Mexico, 26 December 2008.

5 See the Mesoamerica Project website: <http://www.proyectomesoamerica.org>

6 Rights in Action, "Un Desarrollo Patas Arriba y al Revés. Actores Globales, Minería y Resistencia Comunitaria en Honduras y Guatemala". Guatemala, February 2005.

7 *El Observador*, "Generación de energía y megaproyectos", Editorial, Year 3, No. 16. Guatemala, December 2008 - January 2009.

8 *Idem*. In addition, *El Observador* concludes that "even if the government is promoting these large projects as part of its social discourse, at bottom this transformation (of the energy plan) is a business that is in private hands to favor private interests and beneficiaries."

The objective of the latter is to establish a free-trade zone between the European Union and Central American countries.⁹ Some civil society organizations see problems with this arrangement. "It may respond to the proposal to build a platform on which to anchor U.S. and European corporate capital to cohabitate with the capital of Central America's oligarchy in conditions of subordination."¹⁰ E study published by the Copenhagen Initiative for Central America and Mexico (CIFCA) in 2006 noted that there are essential items that are being ignored in the trade negotiations if the EU and Central America want to strengthen their political and economic ties. "First, the acknowledgement of the need for a special and distinct treaty that acknowledges the enormous asymmetry between the parties, and the right and obligation of the governments of the Central American countries to introduce development strategies beforehand at the national and regional level that guarantee respect for and the promotion of human rights, and second, the capacity that Central America has to compete as an integrated regional block not only in trade but also in economic, institutional, social and cultural matters."¹¹

For CONAVIGUA, in the belief that the market is the solution to all development problems, "the influence on domestic policies of the economic system that predominates at the international level is indisputable."¹²

For example, some basic services such as power generation and distribution, telecommunications and transport have been privatized and depend on multinational companies. For the first time, the supply of water has been privatized. This has happened in Puerto Barrios in the Department of Izabal, where the Spanish company Aguas de Barcelona¹³ received a concession for this purpose from the government. According to Andrés Cabanas, there was an attempt to do the same in San Antonio Suchitepéquez but it failed in the face of strong community opposition.¹⁴ Civil society organizations working to defend natural resources say the privatization of basic services entails the establishment of the same legal conditions required for the mega-projects, and they consider these conditions to be destructive in countries that they say have already become poorer under agreements with the World Bank and International Monetary Fund.¹⁵

Homes with electricity and concessions for electric power distribution in the town of Ixcán

Homes with electricity	5.2%
Average monthly use	0.594 Megawatts
Government concession to the municipal company EMRE.	US\$ 1,794,871.79
Concession to UNIÓN FENOSA-Rural Electrification Programme	US\$ 9,743,589.74

Source: Puente de Paz

9 See website on the Free Trade Association: <http://www.aacue.go.cr/>.

10 Grupo Sur, "¿Desde arriba y afuera o desde abajo y adentro?"

11 CIFCA, "Hacia un Acuerdo de Asociación entre Centroamérica y la Unión Europea ¿Un instrumento para el desarrollo y los derechos humanos o un CAFTA II?", Presentación de preocupaciones y propuestas en el contexto de la IV Cumbre de Jefes de Estado y de Gobierno de la Unión Europea, América Latina y el Caribe. April 2006. The conclusion of this analysis was "that the EU and Central America should not be in negotiations on a free-trade agreement until the possibility of another Association Agreement that does not focus on commercial interests is accepted" and that includes recommendations to move the negotiations in that direction.

12 CONAVIGUA, "Racismo Ambiental en territorio de los Pueblos Indígenas asentados en la región de las Verapaces." Guatemala, 2005.

13 The company's operations in Latin America are explained on the website (in Spanish) of the Observatory of Multinationals in Latin America (OMAL) http://www.omal.info/www/todoextendido.php?id_mot=58.

14 Cit. PBI interview, Andrés Cabanas.

15 Report of the II Encuentro Binacional por la Defensa de los Recursos Naturales Chiapas-Guatemala, San Antonio Huista, Huehuetenango, Guatemala, 21-22 March 2009

1.2. LEGISLATIVE REFORMS

In accordance with international policies and projects, several reforms and/or legislative projects have begun in Guatemala to promote foreign trade and attract investment by foreign companies. For example, the reform of the Mining Law in the mid-1990s resulted in the reduction of royalties from 6% to 1%.¹⁶ In 1989, the Guatemalan Congress approved Decree 29/89, or the “Law for Economic Stimulation and Development of Export Activities and the Maquila,” which created exemptions in different sectors. These exemptions were not revoked despite the commitments assumed under the Peace Accords of the 1990s, and later the Fiscal Reform Pact of 2000.¹⁷ According to the International Center for Human Rights Research (CIIDH in Spanish) the beneficiaries of these tax exemptions include mining companies.¹⁸ Meanwhile, the Constitutional Court of Guatemala ruled that various provisions of the current Mining Law are unconstitutional. However, there is a new bill proposed in early 2009 which civil society organizations say will directly benefit mining companies. This bill is still pending approval (at the date of this report).

The Colom government insists on moving in this direction, arguing that there is an imminent energy crisis and deficiencies in semi-public services, and a need to exploit existing natural resources through transnational companies that can improve the service and meet the conditions imposed by international finance bodies like the World Bank at the same time. It continues to emphasize the potential for integral development of local communities (better water and electricity services, infrastructures, etc.), despite the past experiences of the population. Opponents cite the example of the Chixoy hydroelectric plant, noting that 25 years later the majority of people, families and communities affected still live in poverty, without electricity in many cases, and without having received the compensation pledged for decades by successive governments¹⁹. The CIFCA report indicates that this current administration continues to follow the same policies as its predecessors in promoting hydroelectric megaprojects such as the Xalalá dam, mining, oil and bioenergy concessions, and continues to deliver chemical fertilizers to the communities through programmes such as PRORURAL. The government continues to ignore the demands of the communities to be informed, consulted and to be involved in the management and conservation of the natural resources on their lands with development based on sustainable agriculture and a healthy environment.

1.3. ENVIRONMENTAL, SOCIO-ECONOMIC AND CULTURAL EFFECTS OF MINING AND THE EXPLOITATION OF WATER SOURCES

Environmental Effects

According to Pepe Cruz, Director of the environmental group Madre Selva, the environmental effects can be classified according to the way in which they affect nature, such as:²⁰

- **Effects on the atmosphere:** The emission of pollutants from plant construction machinery and the dust (particle contamination) in mining operations are the main negative effects on air quality from these projects. In the case of hydroelectric plants, a scientific study estimated that these projects produce enough greenhouse gases to increase global warming by 4%.²¹

16 Solano, L., “No todo lo que brilla es oro: minería, petróleo y poder en Guatemala”, Special Report, Inforpress Centroamérica, No. 1593. Guatemala, 2005.

17 These exemptions include the tax on income for a period of 10 years, and exemption for all duties and taxes on imports, including the VAT tax on machinery, equipment parts, components and accessories necessary for the production process.

18 International Center for Human Rights Research (CIIDH), “Informe sobre la Ley de Maquila. Diálogo Fiscal”, February 2007.

19 CIFCA, Op. Cit. 2008.

20 PBI interview of Pepe Cruz, member of Madre Selva. Guatemala, May 2009.

21 “Four percent of global warming is due to gasses generated in the dams,” according to Ivan Lima et al of the Brazilian National Institute for Space Research (INPE in Portuguese). According to the study, 52,000 dams in the world emit more than 100 millions tons of methane gas each year, representing a significant portion of the emissions that worsen global warming: “Methane is created by the decomposition of organic material in dams. The massive quantities produced in tropical areas by hydroelectric dams means that these dams contribute more

- **Effects on the water supply:** The discharge of chemical products used in the processes of extracting minerals pollutes the water and permanently alters the local hydrogeological cycle, drying up of rivers and flooding extensive areas (to create the dams), among other effects.
- **Effects on the soil:** Mining and hydroelectric operations lead to alterations in the richness of the subsoil and the characteristics of the soil, which lead to deforestation and the loss of fertile land.
- **Impact on ecosystems:** The effects on air, water and soil have repercussions on the ecosystems, which can be severely harmed, altering the flora and fauna and leading to the extinction of species.

Socioeconomic and Cultural Effects

The individuals and organizations interviewed by PBI stressed the following social, economic and cultural effects:

- **Direct effects on the population:** Respiratory illnesses and skin diseases, especially in children. Forced displacement/eviction of communities living in the flooded areas or affected by the construction of roads and mining installations. Empoverishment of the population due to the deterioration of the conditions necessary for subsistence agriculture²². Loss of existing infrastructures in the communities (due to flooding from the construction of dams) and damage to the same, such as cracks in homes, damage to roads or the destruction of bridges with the passage of heavy vehicles.²³
- **Other Social Effects:** Criminalization of the acts of community leaders who oppose the projects (arrest warrants, the imposition of states of prevention, negative media campaigns, defamation, etc.).²⁴ Increase of mistrust, insecurity and violence in the communities related to the presence of foreigners and the hostile attitude of people in the community who receive financial support or payment from the companies. Tears in the social fabric, community, family. Promotion of jobs exclusively for men. Mining only generates employment for men. Consequently, the women become more dependent again and more vulnerable to gender violence, and are less involved in the community (for lack of self-esteem).²⁵
- **Direct Effects on the Local Economy:** In many cases, there is little or no compensation for the displaced population, and the plans to support their resettlement are generally considered failures.²⁶ Civil society is not involved in the management of natural resources. For example, 48% of communities affected by the construction of hydroelectric plants worldwide do not have access to electricity.²⁷ There is no redistribution of wealth, as there is no access whatsoever to the distribution of economic profits of the company.
- **Cultural Effects:** Desecration of sacred places and places of worship. For example, the hills are considered sacred places by the indigenous peoples. They consider them sources of spiritual energy in which the minerals play a role.²⁸ Imposition of a Western development model that contradicts the principles and values of the culture and the Maya cosmovision. The concept of living well (living in harmony with nature, respecting and conserving the land) versus the concept of quality of life (having the comforts of modern life: good infrastructure, consumer services, etc.).²⁹

to warming than less clean power plants." <http://www.cambioclimatico.org/content/el-4-del-calentamiento-global-se-debe-a-gases-generados-en-las-represas>

22 Committee to Follow Up on the Referendum of Ixcán, Op. Cit.

23 PBI interview of the women of San Miguel Ixtahuacán. Guatemala, May 2009.

24 Cit. PBI interview of women in the 11 communities of San Juan Sacatepéquez opposing the construction of a cement plant.

25 Iwanka Raya, M., Op Cit.

26 Cit. PBI, interview of Pepe Cruz.

27 Puente de Paz, excerpt of the radio broadcast of the Coalition of Women's Organizations of Ixcán (ROMI). Guatemala, 2009.

28 CONAVIGUA, "Violación Flagrante del Estado de Guatemala al Derecho a la Consulta de los Pueblos Indígenas, Casos en el departamento del Quiché". Guatemala, 2005.

29 Cit. PBI, interview of members of AGIMS.

What is Environmental Racism?

According to a study conducted by CONAVIGUA, environmental racism is being forced to submit to a model of development that is increasingly more exclusive, promotes a lack of respect by authorities for employment and environmental laws, and even permits them to ignore them. For example, governments subsidize or reduce taxes to attract business investment, although the activities harm the environment and the employees themselves. The negative effects suffered by the indigenous peoples in Guatemala as a result of such activities to exploit natural resources are considered the consequence of environmental racism. The main responsibility falls to the government which, in contravention of the commitments assumed under the International Convention on the Elimination of all Forms of Racial Discrimination, has tolerated and promoted all of these activities while being aware of the effects.³⁰

1.4. The Resistance of a Community Echoes Around the World

The various forms of opposition developed in and among indigenous communities, which sometimes receive outside support and accompaniment from civil society organizations, emerge locally, but are projected to a global level. “This is a local struggle to defend nature, Mother Earth, which we hope will have global effects,” said Marta Juana Lopez, a Kaqchikel women and independent consultant.³¹

Those we interviewed said this movement attempts to demonstrate the opposition at the community level in areas threatened and/or affected by the arrival of mega-projects. Some examples of the resistance are the organizational processes in which community referendums were held in more than 30 towns in Guatemala, resulting in a resounding “no” to the planned or existing exploration and exploitation of natural assets by transnational companies or their Guatemalan subsidiaries. Other useful instruments in the process have been forums, meetings, press conferences, mobilization and legal actions.

Organized advocacy work has been very effective in several cases. For example, the company Goldcorp was recently evaluated by Jantzi Research, an agency that evaluates the ethic conduct of 210 Canadian companies listed on the Toronto stock exchange. Jantzi concluded that Goldcorp was ineligible for socially responsible investment portfolios and advised its clients not to invest in the mining company.³² One of the indicators used by Jantzi Research was the growing opposition of indigenous communities in Guatemala to the mining operations of the subsidiary Montana Exploradora S.A. in San Marcos. “There continues to be growing opposition from local communities and concerns related to compensation and land rights, inadequate consultation, water quality and quantity, safety and security and damage to homes in the areas close to the mines,” Jantzi wrote after visiting Guatemala. “Goldcorp has the highest environmental fine total among mining companies on the TSX Composite Index, according to the Canadian Social Investment Database.”³³

The opposition has organized in different coalitions and networks that promote a group effort.

Coalitions for Territorial Coordination

These coalitions try to coordinate activities among the communities so that the issues can be examined in a broader context, common concerns and demands can be identified, and strategies for coordinated action defined. Some examples of these coalitions are the Council of the Western Towns, the Council of the Xinca People, the Huehuetengango Departmental Assembly, the Association of Communities in Defense of Territory (ACODET),

³⁰ CONAVIGUA, “Violación Flagrante del Estado de Guatemala al Derecho a la Consulta de los Pueblos Indígenas, Casos en el departamento del Quiché”. Guatemala, 2005.

³¹ PBI interview of Marta Juana López, May 2009.

³² Pastoral Peace and Ecology Commission (COPAE), “Descalificación de Goldcorp por empresa consultora canadiense”, *El Roble Vigoroso*, No 16. San Marcos, Guatemala, 28 May 2008.

³³ Jantzi Research Client Alert, 30 April 2008, available at <http://www.resistencia-mineria.org/espanol/files/Jantzi-Research-Alert-Goldcorp.pdf>

and the Coordinating Body of Associations and Communities for the Integral Development of the Ch'orti' Region (COMUNDICH).

Networks, Alliances and Fronts

The National Front against Dams (FGUARDA) and the National Front of the Struggle against Mining conduct political and advocacy work in the drafting and adaptation of laws. In 2008, the efforts of these groups bore fruit when the court ruled that several articles of the Mining Law were unconstitutional, and an amendment of the law is pending approval of the Energy and Mines Commission of the Guatemalan Congress.

On the international scene, the work of the Network of Latin American Women against Mining, which defends the right of women to promote their own involvement and invites them to participate in alliances and make a contribution in a setting that is predominantly machista (Latin America) and closes off opportunities for women.³⁴

Other Efforts to Coordinate Political and Legal Actions

Other efforts have focused on initiating specific actions in order to share experiences, denounce human rights activities and promote joint strategies of opposition in the defense of natural assets. Some examples of activities in this regard are the National Conference of Communities in Defense of Natural Resources, several forums on mining in the Western region, organized mainly by the Association of Xinca Women of the Xalapán Mountain. Then there are the Binational Conferences on the Defense of Natural Resources, and others. During the second Binational Conference on the Defense of Natural Resources Chiapas-Guatemala (held in San Antonio Huista, Huehuetenango, on 21 and 22 March 2009), the women spontaneously set up a roundtable discussion and explained their arguments about the relationship between gender violence and the installation of mega-projects.

Moreover, women's organizations have participated in events such as the Social Forum of the Americas (Guatemala, October 2008), in which Mam women gave testimony about the consequences of mining in San Miguel Ixtahuacán.

In addition, there have been legal actions that have led to cases heard by the Guatemalan courts and by international bodies (such as the case of Sipakapa, presented to the Inter-American Court of Human Rights).

Institutional Support: Using the Institutions Created by the Decentralization Law

At the community level, the community development boards (known in Spanish as COCODES) and the mayorships of indigenous communities have played a very important role in defining community processes such as that of San Juan Sacatepéquez, where the Good Faith Community Referendum was held despite the unwillingness of the municipal government to arrange it.

On other occasions, the municipal development councils (COMUDES) have offered support. The COCODES and COMUDES of some towns have played a very significant role in the good faith community referendums.

Good Faith Referendums in Guatemala

In the last few years, there have been 33 voter referendums on mining, oil and hydroelectric activity in different Guatemalan towns. These referendums have allowed the communities to state their almost unanimous objections to the exploitation of natural resources. According to the Pastoral Peace and Ecology Commission of the San Marcos diocese (COPAE), since the Constitutional Court ruled in 2007 that the results of the referendum were non-binding there have been many attempts to discredit them.

34 Statement from the Latin American Network of Women against Mining: First Latin American Conference, meeting in Lima, Peru 15-18 November and visit to the Cerro Pasco y Oroya on 19 November 2005. Participants came from Latin American countries affected by mining (Peru, Ecuador, Chile, Bolivia, Venezuela, Colombia, Guatemala and Costa Rica).

In May 2009, the AANMG, with the support of the Rigoberta Menchú Tum Foundation, resubmitted a proposal to establish a Law on the Consultation of Indigenous Peoples to the Commission on Indigenous Peoples of the Guatemalan Congress. The purpose of the proposed law is to create adequate regulations or mechanisms for the effective enforcement ILO Convention 169 and to guarantee that the Guatemalan government respects and promotes the consultation of the Maya, Garifuna and Xinka people.³⁵

According to those we interviewed for this report, the role of indigenous women in each stage of the referendum process has been very important at the informational level, and in the preparation and dissemination of documents. It has also been very important at the organizational level, as illustrated in the case of Ixcán in which Q'eqchi' women organized and promoted the referendum after the mayors of their towns refused to support them. Their role in logistics and in the follow-up on the referendums was also key. The concern most often expressed by the indigenous women interviewed was the follow-up to the referendums, as the government continues to reject the results as binding. They also say that there is a lack of information, no transparency and an unwillingness on the part of the responsible government ministers to hold talks and address the problem.

2. INDIGENOUS WOMEN GUIDING THE ANCESTRAL RESISTANCE OF THEIR PEOPLE

“We therefore affirm that Indigenous Women are knowledgeable about the struggle against poverty in our communities and creating strategies for sustainable development in our communities and beyond.”³⁶

The indigenous women's groups PBI interviewed told us that the defense of natural assets is an integral part of their struggle to combat, for example, gender violence.³⁷ It is also part of the struggle to strengthen the involvement of women in society, as in the case of holding community referendums, and combatting discrimination.³⁸ One of the greatest obstacles to some indigenous women's organizations is the lack of funding to follow up on community opposition in defense of territory and of the environment. Involvement in coordination activities, travel between communities or participation in group events is difficult without financial resources.

The main reasons cited by the women's organizations we interviewed for their continued opposition to the exploitation of natural assets are the following:

Cultural. Their role in the family as regards the passing down of ancestral knowledge (of grandparents) and in being the first contact with children (new generations). Indigenous peoples consider the past generations as much a part of their communities as the future generations. With regard to the latter, the sustainable management of resources is guided by tradition and the relationship to nature, keeping in mind that present actions have an impact on the well being of future generations.

Economic. The division of work between the sexes. Indigenous women are responsible for activities related to subsistence farming and feeding the family. And these activities are directly threatened by water shortages, noise, air pollution and deforestation, etc. This not only worsens the situation of women but it also places traditional methods of subsis-

35 Guatemalan Congress, Commission on Indigenous Peoples, “Dictamen favorable sobre la iniciativa de Ley de consultas a los pueblos indígenas,” 28 November 2007.

36 Declaration of the International Indigenous Women's Forum Beijing +10, New York, 2005, “Bringing Indigenous Perspectives to the International Arena: An Indigenous Women's Conference.”

37 Report of II Encuentro Binacional por la Defensa de los Recursos Naturales Chiapas-Guatemala, San Antonio Huista, Huehuetenango, Guatemala, 21-22 March 2009.

38 Tz'ununija' Women's Movement, Op. Cit.: “The Guatemalan Government should protect against, prohibit, as well as sanction foreign persons and domestic and international corporations that usurp the intellectual property of indigenous women, in accordance with ILO Convention 169.”

tence farming at risk, and threatens the understanding of traditional ecological systems and the relationship with community life.³⁹

Social. Indigenous women tend to the sick and care for the health of the family in rural areas. One of the greatest problems created by the arrival of mega-projects is the crisis in the public health system, which cannot handle the cases of the skin, respiratory and psychological ailments that primarily affect children. This means that a public health system that is already defective is even more overburdened.⁴⁰

The Involvement of Indigenous Women in Mixed Opposition Fronts

The involvement of women in coordinated efforts and debates has increased in recent years, but the women we interviewed said the men continue to monopolize the media-related events and the advocacy tours abroad. Some of the indigenous organizations (mixed as well as women's organizations) stressed the need to have their own space within the mixed activities to strengthen the voice of women.

"It is very hard for indigenous women to break away from our villages, and this means that our voices remain hidden," said one indigenous woman. "This is one of the challenges to be addressed by women's organizations in the future. The invisibility of women is not considered a problem, but it must be. When a space for indigenous women is proposed, they say the intention is to break away. But this space is necessary to draw attention to the struggle. As a friend said: The struggle of indigenous women is a struggle among struggles."⁴¹

39 Iwanka Raya, M., Op. Cit.

40 Cit. PBI, interview of AGIMS.

41 Cit. PBI interview of the Tz' ununija' Indigenous Women's Movement'.



SAN JUAN SACATEPÉQUEZ, GUATEMALA,
MAY 2009. PBI.

Top: Construction work on the cement
plant.

Left: Women of San Juan Sacatepé-
quez observe the progress of construc-
tion works on the cement plant..

Bottom: Women carrying firewood,
accompanied by a child.



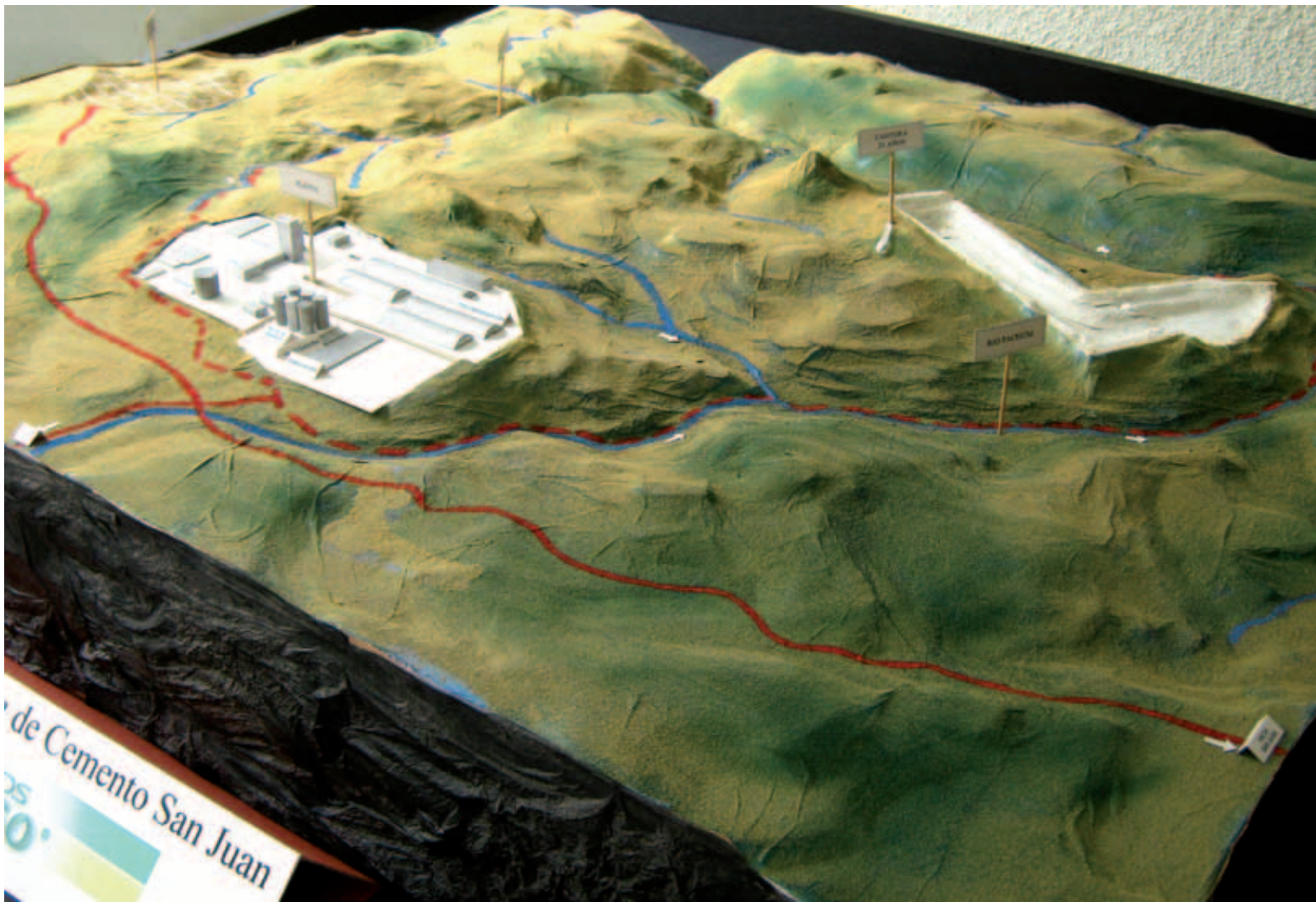


XALAPÁN, JALAPA, MAY 2009. PBI.

Top: Workshop on mining organized by the Xinca Front.

Right: Presentation of the conclusions of a workshop on mining organized by the Xinca Front.

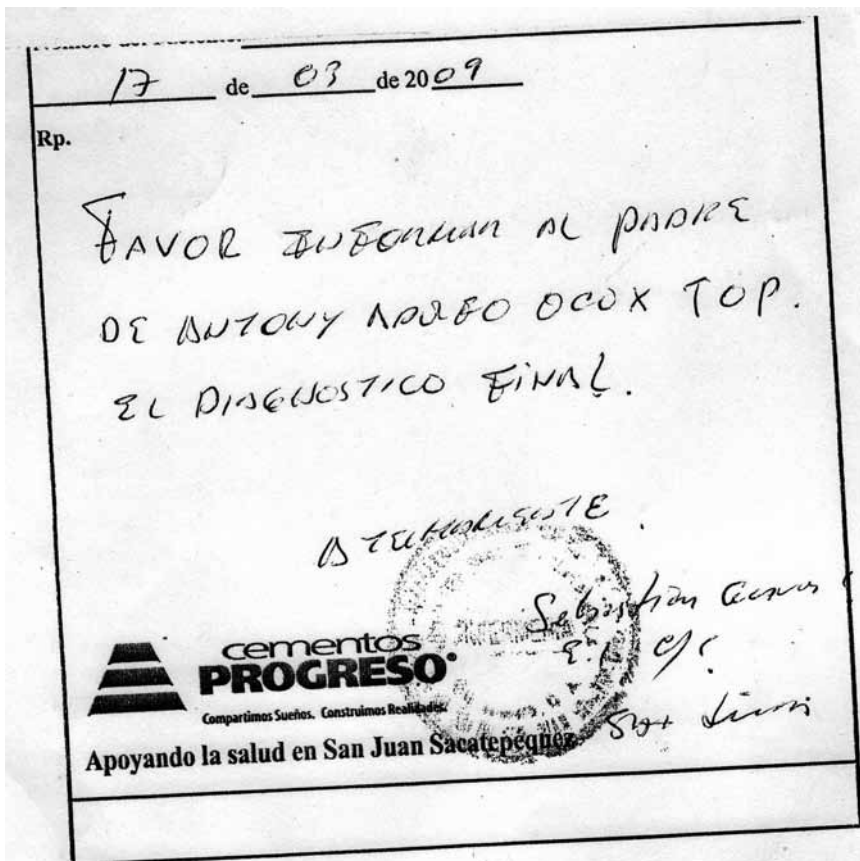




SAN JUAN SACATEPÉQUEZ, GUATEMALA, MAY 2009. PBI.

Top: Scale model of the cement plant proposed by Cementos Progreso.

Left: Notice posted at the public health center of San Juan Sacatepéquez by Cementos Progreso. Scanned document given to PBI during an interview with AGIMS.







Previous page: Confluence of the Chixoy and Copón rivers near the point at which the construction of the Xalalá Dam has been proposed. Ixcán, El Quiché, 2006. Puente de Paz.

Left: Preparation of tortillas during the community referendum in San Mateo Ixtatán. San Mateo Ixtatán, Huehuetenango, 21 May 2009. PBI.

Bottom: Women selling flowers. San Juan Sacatepéquez, Guatemala, May 2009. PBI.







Top left: Women demanding the defense of Mother Earth during the community referendum on mining in San Mateo, Huehuetenango, 21 May 2009. PBI.

Top center: Residents voting in the Good Faith Community Referendum. Ixcán, El Quiché, 20 April 2007. Puente de Paz.

Top Right: María Elena Andrés, president of the Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ) chats with a PBI-Guatemala volunteer during a protest march in Jalapa. Jalapa, 16 September 2009. PBI.

Previous page: Women voting in the community referendum on mining in San Rafael, La Independencia, Huehuetenango, 4 July 2009. PBI.

Left: Mural: "San Juan Resists." PBI.





SAN MATEO IXSTATÁN, HUEHUETENANGO, 21 MAY 2009. PBI.

Left: Community referendum in San Mateo Ixtatán

Center: Women of San Mateo Ixtatán voting in the community referendum.

Right: Community referendum in San Mateo Ixtatán: women with a banner calling for the defense of "natural assets."



SAN MATEO IXTATÁN, HUEHUETENANGO,
21 MAY 2009. PBI.

Top previous page: Women voting in
the community referendum in San
Mateo Ixtatán.

Bottom: Women waiting to vote in
the community referendum in San Mateo
Ixtatán.





Top (this page and next page): Participants in the community referendum of Cuilco, Huehuetenango, 25 October 2008. PBI.

Right: A girl with a banner proclaiming the right to healthcare during the community referendum in Sibinal. Sibinal, San Marcos, 18 April 2008. PBI.









A march organized by the communities of San Juan Sacatepéquez demanding a resolution of the conflict arising from the construction of a cement plant. San Juan Sacatepéquez, 1 May 2008. PBI.



Top: Workshop on the effects of mining in El Estor with the participation of Eloyda Mejía, president of the Friends of Lake Izabal Association (ASALI) and a representative of Oxfam. El Estor, Izabal, 23 September 2008. PBI.



Bottom: Demonstration in Central Park during the handover to the President of Guatemala of the results of the community referendum on mining in Santa Bárbara, Huehuetenango. Guatemala City, Guatemala, 10 March 2009. PBI.

Obligations
and Measures Taken
by International
Governments and Bodies



1. OBLIGATIONS OF THE GUATEMALAN GOVERNMENT

To respect the right of indigenous peoples to be freely consulted and informed beforehand

The right to be informed and consulted is recognized in ILO Convention 169 on Indigenous Peoples and Tribes in Independent Countries (ratified by Guatemala in 1997),¹ in Article 19 of the UN Declaration on the Rights of Indigenous Peoples, in the Declaration on the Right to Development, in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR).

At the national level, these rights are implicitly recognized in the Guatemala Constitution.² They are also laid out in the Information Access Law, as well as in the Peace Accord on the Identity and Rights of the Indigenous Peoples. The referendums carried out in indigenous communities with the support of local authorities in Guatemala were governed by legal provisions recognized in articles 35 and 65 of the Municipal Code, Article 18 of the Decentralization Law, and Article 2 of the Law on Community Development Boards.

In light of the Constitutional Court ruling in 2007 that declared the referendum results non-binding, a bill was presented to the Commission in Indigenous Peoples of the Guatemalan Congress in May 2009 to establish a Law on the Consultation of Indigenous Peoples. The purpose of this law would be to establish regulations for the effective enforcement of the right to be consulted established in ILO Convention 169, and ensure that the Guatemalan government respects and promotes the consultation of the Maya, Garífuna and Xinca people.³

As explained above, another ruling of the Constitutional Court in December 2009 upheld the non-binding nature of the community referendums, although it also ruled that the state is obliged to take the necessary steps to guarantee this collective right of the indigenous peoples, as it is covered in the Guatemalan constitution.

1 Articles 6-15 of ILO Convention 169.

2 Joint interpretation of articles 44, 46 and 66 of the constitution.

3 Cit. Guatemalan Congress.

Guaranteeing the Performance of Environmental Impact Studies

The Mining Law (Decree 48/97) establishes the obligation for companies applying for a mining permit to submit an environmental impact study to the Ministry of the Environment and Natural Resources (MARN).⁴ In addition, Government Resolution 89-2008, which amends the previous Regulation of Environmental Evaluation, Control and Follow-Up, stipulates that a company proposing a project, construction works, industries or activities is obliged to allow the population to publicly participate at the earliest possible stage of the process of developing the environmental document under the terms established by the MARN.

According to *El Observador*, there have been various cases in Guatemalan history in which an environmental impact study was not submitted and/or was submitted with anomalies. One of these cases was in Ixchiguán in the Department of San Marcos, where the mining concession was revoked after a legal challenge was filed due to the inexistence or inconsistency of the environmental impact study.⁵ In the case of San Juan Sacatepéquez, the MARN has confirmed for PBI that although the company Minas de Centroamérica (Cementos Progreso) had not submitted a study by May 2009, the government allowed it to begin installing the machinery in the zone, despite the widespread opposition in the communities.⁶

Regulation and oversight of the arrival and the establishment of transnational companies in their territories

Article 2 of the Charter of Economic Rights and Duties of States stipulates that states have the right “To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the internal affairs of a host State.”

Guarantee the Right to an Adequate Standard of Living

Article 11 of the ICESCR, and articles 2, 3, 51, 96 and 99 of the Guatemalan Constitution recognize the right to an adequate standard of living. This includes the right to adequate housing, water and food. In addition, the right to an adequate standard of living implies the development of infrastructures for health, education (to promote literacy), and jobs.

The current Guatemalan government has initiated various programmes under the so-called Social Cohesion Plan aimed at improving the quality of life. Critics have said that these programmes do not help Guatemala’s neediest population and are used as political favors, which has the effect of dividing the community. In the meantime, companies benefit greatly from the mega-projects, promising economic development in the area. However, the communities directly affected by these projects say they do not receive any of the benefits from them, and are not involved in the management of the resources. The fundamental reason for the opposition of the communities to the exploitation of natural assets on their lands is that they do not share the concept of development or quality of life espoused by the government and the corporations, and say this concept of development does not improve their personal, family or community lives in most cases.

Respect the Right to Housing, Land and Territory

Article 11 of the ICESCR recognizes the right to adequate housing, and Article 67 of the Guatemalan Constitution guarantees protection of communal lands. Under the right to an adequate

4 Art. 20: Environmental Impact Study. Parties interested in obtaining a mining operation permit must submit an environmental impact study to the corresponding body for its evaluation and approval, which shall be a requirement for granting the permit. This study must be submitted to the National Environmental Commission.

5 *El Observador*, No 14, Op. Cit.

6 PBI, information provided by the representative of the Public Information Unit of the MARN. Guatemala, May 2009.

standard of living, the communities are entitled to protection against arbitrary or illegal interference in their private life, family or home, and they have the right to the legal security of possession.⁷

Moreover, ILO Convention 169 requires respect for the rights of indigenous peoples to land and territories (articles 13-17), which includes the right to remain on their lands (not displaced), the recognition of the rights over their natural resources and involvement in the management of the latter.

However, the majority of the processes involved in the implementation of mega-projects in Guatemala have not followed these principles. On many occasions, a good part of the population has been forcibly displaced in these areas. In light of this, the UN Committee for the Elimination of All Forms of Racial Discrimination issued a recommendation specifically aimed at Guatemala. "In the cases in which these lands and territories were occupied or used without the free and informed consent of those populations, the Committee recommends that the State Party [to the Convention] take steps to return these lands."⁸

In the case of the construction of the Xalalá dam, many communities live in the potential flood area and/or are affected by the loss of subsistence resources. Consequently, if the project is carried out, these people will be displaced, probably against their will. International human rights laws require the state to avoid evictions and protect against forced displacement, which contravenes the ICESCR. The free, prior and informed consent of communities, pursuant to Article 1 of the Declaration of the United Nations on the Rights of Indigenous Peoples, constitute an essential obligation in all decisions on the displacement or eviction of a population from an area. It is a collective right that the state is responsible for guaranteeing.

2. OBLIGATIONS OF THE COUNTRIES OF ORIGIN OF TRANSNATIONAL COMPANIES OPERATING IN GUATEMALA

To Cooperate and Assist in the Fulfillment of Human Rights

Under articles 1 and 2 of the ICCPR and the ICESCR, the signatory states are obliged by the UN Charter to take steps to progressively achieve fulfillment of human rights.

To Take Steps to Eliminate Discrimination against Women in Rural Areas

Article 14 of the Convention on the Elimination of All Forms of Discrimination Against Women stipulates the following: "The States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development."

To Respect the Right to Health in other Countries

The Committee on Economic, Social and Cultural Rights (CESCR) has stated the following: "States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law."⁹

7 UN, Kothari, Miloo, "Basic Principles and Directives on Evictions and Displacement Generated by Development." Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living. 5 February 2007.

8 ICERD, "Final Observations for the Elimination of All Forms of Racial Discrimination". 11 and 15 May 2006.

9 CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12). 2000.

To Respect the Right to Potable Water in Other Countries

General Comment No. 15 of the CESCR stipulates that the States Parties are obliged to respect the right to water in other countries.¹⁰

To Promote the Social Responsibility of Their Companies in other Countries

The Committee for the Elimination of Racial Discrimination (CERD) has recommended that the State of Canada “explore ways to hold transnational corporations registered in Canada accountable.”¹¹ Moreover, the UN Commission on Transnational Corporations has begun developing a Code of Conduct for the latter in collaboration with the UN Center on Transnational Corporations.¹²

In this respect, there is some case law in the countries from which these transnationals come that has set precedents in sanctioning their conduct in other countries. The first such case was in 1996 in which the court admitted the possibility of suing a U.S. company in U.S. courts for its activities, and the activities of its partners abroad, if it is accused of violating international human rights laws.¹³

3. THE OBLIGATIONS OF INTERNATIONAL BODIES

To Implement ILO Convention 169 in the Internal Policies of International Multilateral Financing Agencies

After a number of inquiries, the International Bank for Reconstruction and Development (IBRD), there was extensive consultation for the review of Operational Directive No. 4.20. However, the draft revision was met with criticism from human rights groups. “It does not include many of the most important recommendations made by the indigenous peoples in the first round of consultation, including the right to prior and informed consent, the monitoring of bank projects by the indigenous people and a fair mitigation requirement,” wrote Rights in Action. The organization further stated that if the draft was an indication of the consultation process, it will be hard to expect much from the current policies of the World Bank with respect to consulting the indigenous peoples.¹⁴

10 CESCR, General Comment No. 15: The Right to Water (articles 11 and 12 of the ICESCR). 2002.

11 CERD, “Concluding Observations/Comments.” Canada, May 2007.

12 See http://www.omal.info/www/article.php3?id_article=1615. There are three basic reasons for the discord between the countries of the North and South regarding the development of a Code of Conduct: the concept of national sovereignty over natural resources, the matter of equal treatment for domestic and transnational corporations, and the regulation of the conduct of transnationals and of the government in its dealings with them.

13 See website Teaching Human Rights Online. Doe v. Unocal: <http://homepages.uc.edu/thro/doe/duout.html>. A group of Burmese residents filed a lawsuit against the California company Unocal in U.S. federal court in 1996 alleging they had suffered human rights abuses such as forced labor, murder, rape and torture at the hands of the Burmese military during construction of a gas pipeline, and that Unocal was complicit. The parties reached an out-of-court settlement in which Unocal agreed to compensate the victims.

14 Op cit. Rights in Action.

RECOMMENDATIONS TO THE PRIVATE SECTOR AND THE INTERNATIONAL COMMUNITY

In our interviews, all of the organizations mentioned the need to make a series of recommendations to the private sector and the international community. The following is a summary of the recommendations these organizations have:

To the private sector in general

Consult with the communities affected, and reach agreements before starting any type of work, particularly exploration and exploitation of the natural assets in their territories.

To international companies with subsidiaries or capital investments in Guatemala

Monitor compliance with the company's codes of conduct and ensure that the projects in which they have a stake respect the human rights of the residents and local communities pursuant to the provisions of international conventions and local laws.

To private financial entities

Take into account the opinions, needs and demands expressed by the communities before financing projects that affect them, particularly those aimed at the exploration and exploitation of the natural assets in their territories.

To the news media

Report information truthfully, impartially and objectively.

To the international community

Continue monitoring the socio-economic, cultural and environmental reality of the communities affected by mega-projects.

Continue international cooperation by implementing projects with local organizations and communities, making use of the diverse possibilities for providing support without having negative or undesired affects on these organizations and communities.

Increase technical and financial support for programmes that strengthen indigenous women's organizations, and particularly support for programmes that promote gender equality, ethnic identity and the defense of natural resources.

CONCLUSIONS

"Mother Earth must not be bought or sold, but taken back and defended"

Social Forum of the Americas, Guatemala, October 2008

The arrival of mega-projects and transnational corporations has been met with strong opposition in indigenous and/or rural communities in Guatemala, as the testimony in this report shows. On the one hand, government policies and the interests of transnational and Guatemalan corporations have promoted the exploitation of the country's natural assets, reflecting a worldwide trend. The communities, most of them indigenous, suffer the socio-economic, cultural and environmental consequences of these projects on their lands without having been consulted or informed beforehand. As we demonstrate in this report, the consequences of these projects have driven the opposition of indigenous women, who must also confront a patriarchal system that restricts their activities and opportunities. In addition, one of the essential demands of the indigenous women and/or organizations we interviewed is an end to racism.

In addition to the socioeconomic, cultural and environmental effects on their communities, the indigenous peoples are not involved in decision-making processes or in the management of resources, and in the majority of cases the benefits of the projects are not available to them. The arrival of these corporations to the communities is generally accompanied by a process of social and family disintegration, resulting from divisions within communities and families that result from business strategies. In the cases discussed in this report, the communities opposing the mega-projects are stigmatized and sometimes become the target of criminal prosecution.

The women we interviewed note the progress that has been made by women's organizations in processes of social and citizen involvement, and access to land. However, they point out that it is mostly men who continue to hold the decision-making power.

Indigenous women currently play an important role in voicing the demands of the indigenous peoples regarding the recognition of individual and collective rights. For example, they have denounced the lack of information about the granting of permits to explore and exploit the natural assets on their lands, and note that prior consultation is a fundamental right recognized under national and international law.

Although the Constitutional Court has recognized the right to be consulted as a collective right of indigenous peoples which entails obligations for the Guatemalan government, the same court continues to consider the results of such consultations, or referendums, to be non-binding, which contravenes the right to free, prior informed consent covered under international treaties and conventions signed by Guatemala. In addition, when justifying permits for mega-projects, the government and corporations continue to use the argument that the exploitation of natural resources will bring development and benefits to the communities and the country. None of the civil society organizations we consulted and interviewed in the various communities affected by these projects agrees with that assessment. These communities propose a different development model that respects and is in harmony with their cultural and ancestral values, values that establish the intimate relationship of the indigenous peoples to the land and territory in which they live. In short, Guatemala has still not fulfilled its obligations to adopt and, above all, enforce measures that facilitate the protection of the human rights of women and indigenous peoples.

Finally, the organizations interviewed for this report noted the increase of social conflict and made it clear that the strategies used by private and government entities to prevent conflict around the development of mega-projects in indigenous communities have not worked. As several of the individuals and organizations we interviewed have noted, the increase in the presence of the military and police forces in the communities linked to the declaration of the State of Prevention has met strong criticism within the communities and civil society organizations, and has led in some cases to complaints of abuse of authority. The consequence is a climate of insecurity and mistrust, made worse by threats aimed at individuals, institutions or groups in the communities. Unfortunately, many comparisons were made by those we interviewed between the current situation with the implementation of mega-projects and the situation during the armed conflict.

GLOSSARY

AANMG	Association of Lawyers and Notaries of Guatemala
ACODET	Association of Communities in Defense of Territory
AGAAI	Guatemalan Association of Indigenous Mayors and Authorities
AGIMS	San Juan Women's Association
AMISMAXAJ	Association of Indigenous Women of Santa María Xalapán
AMPI	Association of Women Producers in Ixcán
AMR	Association of Rural Women
ASALI	Friends of Lake Izabal Association
AVANSCO	Association for the Advance of Social Sciences in Guatemala
CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations
CHRLA	Centre for Human Rights Legal Action
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
DR-CAFTA	Dominican Republic – Central America Free Trade Agreement
CEH	Commission for Historical Clarification
CERD	Committee for the Elimination of Racial Discrimination
CDESC	Committee on Economic, Social and Cultural Rights
CIDH	Inter-American Human Rights Commission
CIFCA	Copenhagen Initiative for Central America and Mexico
COCODES	Community Development Boards
COMUDES	Municipal Development Boards
COMUNDICH	Coordinating Body Associations and Communities for the Integral Development of the Ch'orti' Region
CONAPREVI	National Coordinating Committee for the Prevention of Domestic Violence
CONAVIGUA	National Coordinating Body of Guatemalan Widows
CONIC	National Coordinating Body of Indigenous and Campesino Organizations
COPREDEH	Presidential Human Rights Commission
CPR	Communities of the People in Resistance
CUC	Campesino Unity Committee
DEMI	Indigenous Women's Advocacy Office
EU-CAAA	European Union Central American Association Agreement
FGUARDA	National Front against Dams
FNM	National Women's Forum
FONTIERRA	The Land Fund
GAM	Mutual Support Group
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGSS	Guatemalan Social Security Institute
ILO	International Labour Organization
INE	National Statistics Institute
INDE	National Electric Company
IGSS	Guatemalan Social Security Institute
MAGA	Ministry of Agriculture, Livestock and Food

MARN	Ministry of the Environment and Natural Resources
MAUX	United Autonomous Women of Xenacoj
MEM	Ministry of Energy and Mines
MP	Public Prosecutor's Office
OAS	Organization of American States
OHCHR	UN Office of the High Commissioner for Human Rights
OMM	Municipal Office for Women
OSAM	Mesoamerican Social Agricultural Observatory
PDH	Human Rights Ombudsman's Office
PNC	National Civil Police
PNPDIM	National Policy for the Integral Development of Women
PPP	Puebla-Panama Plan
ROMI	Coalition of Ixcán Women's Organizations
SEPAZ	Peace Secretariat
SEPREM	Presidential Secretariat for Women
SIEPAC	Electrical Interconnection System for Central America
UN	United Nations
UNAMG	National Association of Guatemalan Women
UNGA	UN General Assembly

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ANNEX 1. METHODOLOGY – RESEARCH ACTIVITIES

PREPARATION OF RESEARCH AND INFORMATION GATHERING

Documentation (see references):

- Various articles and declarations
- National legislation, government resolutions and international mechanisms for the protection of human rights
- News media, magazines, main websites

ANALYSIS OF THE SITUATION

General interviews:

- Carmela Curup, Association of Mayan Notaries and Lawyers of Guatemala
- Carlos Guárquez, Guatemalan Association of Indigenous Mayors and Authorities
- Inés Solís Ortiz, Teresa Sijón, María Mateo and Demetria Camposeco, Rural Women's Alliance
- Eloyda Mejía, Friends of Lake Izabal Association
- Marta Juana López, independent Kaqchikel consultant
- Feliciano Macario and Teresa Reynoso, CONAVIGUA
- Herlinda Raxjal Méndez, CONIC
- Irene Barrientos and Senaida Tosagua, CUC
- Marta García, Rights in Action
- Pepe Cruz and Estuardo Mendoza, Madre Selva
- Juana Mujul and Victoria Cumes, Tz'ununija' Indigenous Women's Movement
- Andrés Cabanas, Mugarik Gabe
- Gregoria Crisanta Pérez and other women of the town of San Miguel de Ixtahuacán (San Marcos)
- Sandra Morán and Lorena Cabnal, Sector de Mujeres
- María Elena Reynoso, Tierra Viva

Observation and interviews conducted for specific case studies:

Xalapán, Jalapa: Xinca area

- Association of Xinca Women of Santa María Xalapán
- Xalapán Xinca Community Action

Playa Grande Ixcán, El Quiché: multicultural and Q'eqchi' area

- Association of Women Producers of Ixcán
- Reyna Cabá, town councilor, Women's Commission, ROMI
- Mama Maquín
- Martina Tojim Pérez, Municipal Office for Women of Playa Grande, Ixcán
- Juana Cabá, Parish Social Services Office
- Puentes de Paz
- Legal and Social Services

San Juan Sacatepéquez, Guatemala: Kaqchikel area

- San Juan Women's Association, San Juan Sacatepéquez
- Xenacoj Autonomous Women's Association, Santo Domingo Xenacoj
- Qamoló kí AjSanJuani', 16 representatives of women from the 11 communities opposing the cement plant in San Juan Sacatepéquez
- Marta Sicán de Coronado, Mayor of San Juan Sacatepéquez

Processing and analysis of the information gathered

Writing and revision of the report

**ANNEX 2. LIST OF COMMUNITY REFERENDUMS HELD IN GUATEMALA
(AS PER NOVEMBER 2008)**

PLACE	DATE	TOTAL NUMBER OF VOTES	VOTES AGAINST/IN FAVOR
Zacapa			
Río Hondo	3-7-05	2,809	Hydroelectric plants: 2,735 / 74
Guatemala			
San Juan Sacatepéquez	13-5-07	8,244	Mining: 8,240 / 4
Quiché			
Ixcán	30-4-07	21,115	Oil and hydroelectric projects: 21,115 / 0
San Marcos (6)			
Sipacapa	18-6-05	13 villages	Mining: 11 / 2 villages
Comitancillo	14-18-5-05	51 communities	Mining: 51 / 0 communities
Concepción Tutuapa	13-2-07	64 communities	Mining: 64 / 0 communities
Ixchiguan	13-6-07	7,617	Mining: 7,561 / 56
Tacaná	30-4-07/ 16-5-08	50,000	Mining: 50,000/0
Sibinal	18-4-08	13,200	Mining: 13,200/0
Huehuetenango (20)			
Colotenango	25-7-06	7,861	Mining: 7,905 / 50
San Juan Atitán	25-7-06	5,919	Mining: 5,919 / 0
Todos Santos Cuchumatán	25-7-06	7,100	Mining: 7,100 / 0
Concepción Huista	25-7-06	4,985	Mining: 4,985 / 0
Santiago Chimaltenango	27-7-06	3,100	Mining: 3,100 / 0
Santa Eulalia	30-8-06	18,156	Mining: 18,089 / 5
San Pedro Necta	30-3-07	17,741	Minería: 17,741 / 0
San Antonio Huista	12-3-07	5,774	Mining: 5,554 / 0
Santa Cruz Barillas	23-6-07	46,490	Mining: 46,481 / 9
Nentón	11-8-07	19,842	Mining: 19,842/-0
San Ildefonso Ixtahuacán	3-8-07	14,469	Mining: 14,469/0
San Sebastián Huehuetenango	29-10-07	6,770	Mining: 6,770/0
San Miguel Acatán	1-12-07	12,861	Mining: 12,854/7
Chiantla	17-7-08	32,998	Mining: 32,971/27
Jacaltenango	2-7-08	27,250	Mining: 27,250/0
Tectitán	17-6-08		
Santa Ana Huista	8-8-08	4,696	Mining : 4696/0
San Juan Ixcoy	13-7-08	12,011	Mining: 12,008/3
Aguacatán	3-10-08	23,523	Mining: 23,523/0
San Pedro Soloma	18-10-08	23,764	Mining: 23,760/4
Cuilco	26-10-08	12,302	Mining 12,302/0

Sources: Peace and Ecology Commission – San Marcos COPAE; Madreselva, Research Center of the Western Border of Guatemala CEDFOG (Huehuetenango) and the Departmental Assembly in Defense of the Renewable and Non-Renewable Resources of Huehuetenango and Inforpress.

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