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## **The politics of horizontal inequality**

Indigenous opposition to wind farm development in Mexico

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**Abstract:** In less than a decade, foreign investors have erected more than 3,200 wind turbines across the Isthmus of Tehuantepec investing billions of dollars and generating more than 90 per cent of Mexico’s wind energy. The isthmus is also home to more than one thousand indigenous communities whose ancestors settled in the region roughly 3,000 years ago. In most cases, wind farm construction has proceeded without significant community opposition. More recently, however, some indigenous communities have begun to protest against the wind turbines that are taking over their land and transforming their landscape. An intersectional approach highlights two distinct features of the politics of horizontal inequality. First, political strategies and demands may shift over time and across issue areas—opposition to windmills may be generated by exclusion from decision-making, inadequate compensation, or the violation of sacred land. Second, the lens of intersectionality focuses attention on the ways that such categories as race, class, ethnicity, gender, language and region intersect to challenge the ‘group-ness’ of any one of these categories. In the case of indigenous opposition to wind technology in Mexico, intersectionality explains the particular challenges inherent in securing ‘free prior and informed consent’, a cornerstone of contemporary policy toward indigenous peoples.

**Keywords:** ethnicity, horizontal inequality, indigenous peoples, intersectionality, Mexico

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## Introduction

In the Isthmus of Tehuantepec, where Mexico narrows down to a slender belt between the Pacific Ocean and the Gulf of Mexico, the average regional wind speed is over 19 miles per hour. It's one of the windiest places on earth. Companies in the wind energy sector have identified the isthmus as a "high wind resource area" with "excellent wind energy potential." In less than a decade, foreign investors have erected more than 3,200 wind turbines across the isthmus investing billions of dollars and generating more than 90% of Mexico's wind energy (Thomson Reuters 2014). Developing the wind potential of the isthmus is crucial to Mexico's goal of increasing reliance on renewable energy in compliance with international environmental agreements.

The isthmus is also home to more than one thousand indigenous communities whose ancestors settled in the region roughly 3000 years ago (Mexico News Daily 2014). Today, most of them make a meagre living as farmers and fishermen. Many do not speak Spanish, and they continue to practice an indigenous culture and belief system that revolves around the vulnerable local eco-system.

In most cases, wind farm construction has proceeded without significant community opposition. The first project, La Venta I, has been operating on communal ejido land since 1994. Since 2006, an additional twenty wind farms have been built on indigenous land, and although negotiations over the terms of construction have sometimes been protracted, the exploitation of wind power in the isthmus has gone mostly uncontested.

More recently, however, some indigenous communities have begun to protest against the wind turbines that are taking over their land and transforming their landscape. In 2012, the Mareña Renovables wind energy project came under violent local opposition from the Ikojts and Binniza people of San Dionisio del Mar who claimed that they had not been consulted about the project and that the wind turbines were slated to be built on sacred land. In 2013, Zapotecs from Unión Hidalgo protested against the Piedra Larga I wind farm for failing to adequately compensate farmers for their land, and for violating collective property rights and traditional laws. In 2014, neighboring communities launched protests against the proposed construction of Piedra Larga II and Piedra Negra II, alleging that the wind turbines impeded their ability to farm and polluted the environment.

The indigenous population of southern Oaxaca clearly occupy a position of horizontal inequality. They are not only ethnically distinct, but overwhelmingly poor, with limited access to political power. The term "horizontal inequality" describes a situation in which political identities, strategies, and demands are shaped and constituted by multiple, overlapping, and intersecting exclusions. Although indigenous people may engage in ethnic politics (such as demands for language or cultural protection), for political purposes they are not usefully understood as a distinctively "ethnic" group. Horizontal inequality generates, I argue, a distinct type of politics best understood through the lens of intersectionality.

An intersectional approach highlights two distinct features of the politics of horizontal inequality. First, political strategies and demands may shift over time and across issue areas – opposition to windmills may be generated by exclusion from decision-making, inadequate compensation, or the violation of sacred land. Strategies and demands may shift, or become ossified, through the dynamic interaction between individuals, groups, and institutions that constitutes political engagement itself. One implication of globalization is that that dynamic interaction takes place with multi-level stakeholders: from local municipal councils to federal

courts, multinational corporations, national and international development banks, and international courts.

Second, the lens of intersectionality focuses attention on the ways that such categories as race, class, ethnicity, gender, language and region intersect to challenge the “group-ness” of any one of these categories. Indigenous women may not have the same interests and concerns as indigenous men. Elites who live in the village center and have access to income may not have the same interests as subsistence farmers whose homesteads are on the remote outskirts, and so on. In the case of indigenous opposition to wind technology in Mexico, intersectionality explains the particular challenges inherent in securing “free prior and informed consent,” a cornerstone of contemporary policy toward indigenous peoples.

### **Competing legitimacies**

I start from the, perhaps controversial, premise that fostering the growth and development of a vibrant wind energy sector in the Isthmus of Tehuantepec is a legitimate political and development goal for the government of Mexico and the state of Oaxaca. There is more at stake here than a rapacious quest for corporate profits. Wind energy is one of Mexico’s most viable sources of clean energy, a crucial component of the country’s strategy to comply with domestic legislation and international agreements that rises to the level of a national development goal. Securing international investment for wind energy development by creating a stable social, legal, economic, and political environment is an important test of governance for Mexico.

Mexico is currently the 11<sup>th</sup> largest economy in the world, and it also ranks 11<sup>th</sup> in terms of carbon emissions. Mexico has also taken a leading role in climate change negotiations, widely credited with rescuing the Kyoto Protocol after the debacle at Copenhagen by hosting the Cancún talks in 2010. In 2012 Mexico passed a General Law on Climate Change, making it only the second country in the world to enact legally binding emissions goals. In 2013 it launched a National Climate Change Strategy and announced its first carbon exchange.<sup>1</sup>

Mexico was also the first developing country to lay out its plans to reduce carbon emissions in anticipation of the Paris Climate Talks in December 2015. In March of that year Mexico submitted an ambitious plan to reduce emissions by 30% below business as usual by 2020, and by 50% below business as usual by 2050. Mexico also pledged that emissions would peak in 2026, setting an important benchmark for other developing countries. Mexico has also committed to reduce the production of black carbon – the particles produced by burning wood, diesel, and other fuels – by 51% by 2030.

Much of Mexico’s strategy for achieving these goals depends on switching from gas, coal, and oil to renewable sources of energy such as wind, solar, hydro, and geothermal. Mexico has some of the highest wind and insolation (the amount of the sun’s radiation to reach the earth) levels in the world. Solar and wind energy have experienced triple digit growth in the last ten years. And yet in 2012, only 4% of Mexico’s electricity was generated from renewable sources. Mexico’s carbon reduction strategy includes a pledge to generate 35% of the country’s electricity from renewable sources by 2024.

In particular, the development of wind energy capacity is crucial to Mexico’s ability to attain the goals it has set out in national legislation and international agreements. Although renewable energy is usually more expensive than energy from traditional non-renewable sources such as oil and gas, the cost of wind energy in Mexico is already roughly the same as the cost of

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<sup>1</sup> <http://www.theroadthroughparis.org/resources/mexico-announces-offer-paris-climate-agreement-and-new-climate-partnership>

gas energy, and the cost of wind energy is expected to decrease as technology and infrastructure advances. Mexico is one of the only countries in the world that has been able to develop its wind energy sector without relying on special feed-in tariffs, tax credits, or other subsidies. By 2040, wind is expected to comprise 28% of Mexico's total installed energy capacity (Bloomberg 2015).

Along with the coast of Tamaulipas, the Isthmus of Tehuantepec has the strongest potential for wind development in Mexico. At present, 90% of Mexico's wind energy comes from the twenty one wind farms currently operating in Oaxaca, producing 2267MW of wind power (BNamericas 2015). Government officials in Oaxaca have set ambitious targets of generating 2700MW of wind energy in 2016, 4000MW in 2018, and 5500MW by 2024 (Renewables Now 2015). Experts estimate that the isthmus has the potential to produce 10,000MW of wind power annually. Achieving that goal will involve billions of dollars of additional investment from multinational corporations and the construction of roughly another 6600 wind turbines. Oaxaca has not yet come close to achieving the wind energy capacity that the government is counting on to reach its goals for shifting from dirty to clean sources of energy.

### **Mareña Renovables**

Almost all of the wind energy investment and development in Mexico has come from foreign corporations. In February 2012, the Australian investment bank Macquarie Capital announced it had secured equity financing for the Mareña Renovables Wind Project from a Dutch pension fund named PGGM and the Japanese Mitsubishi Corporation. Macquarie also raised \$700 million in debt financing from nine lenders including the Inter-American Development Bank. The Danish wind company Vestas Wind Systems won the competitive bidding process to build the turbines and substations. Two Spanish wind companies, DEMEX and Preneal, are also involved. Finally, the consortium signed a "twenty year self supply offtake contract" – a long term commitment to purchase electricity from Mareña Renovables -- with FEMSA, the world's largest Coca Cola bottler, and Heineken Mexico.<sup>2</sup>

Mareña Renovables was scheduled to be the largest wind farm in Latin America, producing 396MW of energy per year. The project design included 132 Vesta wind turbines with a capacity of 3MW each, three substations, a 52 km transmission line connecting to the national grid, six docking stations, and the construction of new access roads (IDB 2012). It would run along 27 kilometers of coastline. Macquarie had put together a "dream team" of investors and lenders to finance the project, and it had secured all the necessary permits and commercial contracts by the time PGGM and Mitsubishi came on board. With backing from the IDB and the Mexican development bank Banobras, it had not only financial muscle but political capital behind it. It was scheduled to go online in 2013.

It wasn't long, however, before members of the local communities of San Dionisio del Mar, Santa Maria del Mar, and Pueblo Viejo, where the wind farm was scheduled to be built, began to challenge the project. Opposition seems to have been generated initially by an absence of consultation, and emerging evidence of corruption.

According to the well known Mexican newspaper *La Jornada*, the then-president of the *comisariado de bienes comunales* (in charge of communally held resources) of San Dionisio del Mar signed a preliminary contract to lease land to the Spanish wind company Preneal in 2004. Whether or not the community was aware of that agreement is a matter of some dispute. Some

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<sup>2</sup> Macquarie Capital report November 2012. In this report Macquarie uses Mareña project as a successful example of how wind investment financing and project development is done.

sources say the contract was negotiated and signed secretly, in exchange for bribes (Upside Down World 2012). But others recall meetings in which Preneal played informational videos and assured the community that the turbines were harmless. They offered the town 1.4% of profits and \$500,000 per year to lease the land (Christian Science Monitor 2012). Apparently feeling as if they had little choice, the town assembly agreed to a lease that gave the corporation access to 1643 hectares of land for thirty years (La Jornada 2012). Preneal never went ahead with the construction of the wind farm, however, and in 2011 it sold Mareña Renovables to Macquairie Capital.

With the preliminary contract in hand, Macquairie resumed discussions with the community in 2011 and paid the municipal president, Miguel López Castellanos, either \$14 or \$20 million pesos (\$1-\$1.5 million US dollars) for permission to begin construction of the wind turbines (Noticias de Oaxaca 2012).<sup>3</sup> In this case, there does seem to be consensus that López Castellanos gave consent for construction without community consultation, and community members did not find out about the agreements until mid-2011, while Macquairie was still busy securing equity and loan investment in the project.

When members of the community discovered that the municipal president had agreed to lease land to Mareña Renovables, they held two public assemblies in August 2011, categorically rejecting the project.<sup>4</sup> The community also demanded that López Castellanos revoke his consent for the wind farm, which he refused to do.<sup>5</sup> In January 2012 community members occupied the municipal government building in San Dionisio, identified themselves as the Asamblea General del Pueblo de San Dionisio (the General Assembly of the People of San Dionisio), and declared themselves “in resistance.”

In February 2012, community representatives traveled to Mexico City to ask DEMEX, the Mexican subsidiary of a Spanish wind farm development corporation and a minor partner in the Mareña Renovables project, to re-initiate the contract process. But timing was against them. February was the same month that Macquairie announced that it had secured the complex multinational financing for the project, and the Mexican government and the renewable energy sector were heralding the project as an important milestone in wind development. DEMEX refused to re-open negotiations with the community over land rights.

The community subsequently lodged a formal complaint with the local Agrarian Tribunal, the government agency charged with settling agrarian disputes, requesting annulment of the contract. When that strategy also proved futile, community members physically intervened to block the construction of access roads in April 2012, setting up a permanent watch to prevent contractors from initiating building.

In September 2012 supporters organized an “encuentro,” or gathering, that brought roughly 300 activists from all over Mexico to San Dionisio to exchange ideas, plan strategies, and show solidarity. In October a broad coalition of groups from Oaxaca and elsewhere in Mexico, including the Asamblea General de San Dionisio, UCIZONI, la Asamblea de Pueblos Indígenas del Istmo en Defensa de la Tierra y el Territorio, and la Alianza Mexicana por la Autodeterminación de los Pueblos Mexicanos, launched a series of protests in Mexico City, holding rallies in front of the InterAmerican Development Bank, Mitsubishi, Coca Cola, Vestas,

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<sup>3</sup> Macquairie claims it gave him \$20 million pesos, but López Castellanos only admits to receiving \$14 million.

<sup>4</sup> Indian Law Resource Center Request for Consultation and Compliance Review, December 26, 2012 p.11-12

<sup>5</sup> The sequence of events outlined below comes mainly from Upside Down World (2012).

and the Danish embassy.

In early December 2012, the community won an important victory when a court ruling ordered suspension of the project pending community consultations (SIPAZ, 2012). On 26 December 2012, Leonardo Crippa of the Indian Law Resource Center in Washington D.C. submitted a Request for a Consultation and Compliance Review to the InterAmerican Development Bank. In late December and early January community members in opposition again clashed with the municipal president and his supporters when state police arrived to provide security for a community assembly that excluded opponents of the project and allegedly voted to support construction (SIPAZ, 2013). By the middle of 2013, Mexican media sources were reporting that Mareña Renovables had been canceled, although that was not confirmed by Macquairie until January 2014 when the consortium announced that it had completed consultations allowing the company to move the project to a new location (Dutch News 2013).

### **Intersectionality and the politics of horizontal inequality**

In the field of development economics, the term “horizontal inequality” is most closely associated with Frances Stewart.<sup>6</sup> Although the idea that class and ethnicity or race might overlap to create multiple sites of disadvantage, or privilege, has long been understood by social scientists, Stewart worried that development economists and existing development policies in particular paid too much attention to individual well-being and inequality (which she called vertical inequality) and not enough attention to group-based, or horizontal inequalities. She had in mind cases in which ethnic or cultural groups as a whole experienced unequal access to political power, resources, and/or social services.

Stewart argued that development policies concerned with mitigating inequality should focus attention on horizontal inequalities that could be particularly intractable as different dimensions of inequality reinforce one another. Lack of access to political power, for example, is an inequality in its own right, and may also contribute to or exacerbate a group’s lack of access to resources (Stewart 2002). Her real concern, however, was that horizontal inequality would lead to violence. “Where ethnic identities coincide with economic/social ones, social instability of one sort or another is likely.” (Stewart 2002).

Rachel Gisselquist has also explored the coincidence of ethnicity and class, drawing on Donald Horowitz’ distinction between ranked and unranked ethnic systems. Although, like Stewart and others, Horowitz was primarily interested in the impact of ethnicity on violence, Gisselquist points out that Horowitz also predicted that ranked systems, where ethnic differences track closely with class, would produce a different kind of politics than unranked systems where ethnicity and class did not coincide (Gurr, 1993).

Drawing on Horowitz’s insight, Gisselquist tests the proposition that ethnic politics is more progressive in ranked systems where ethnic minorities are also poor. Not surprisingly, she uses primarily case studies from Latin America, where ethnic difference has been practically synonymous with poverty at least since the colonial encounter, to show that ranked systems do indeed often generate a type of politics that blends leftist class demands with indigenous culture. Her strongest case is that of the Bolivian MAS party, long characterized as deploying a distinctive leftist politics that combines class and ethnicity.

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<sup>6</sup> See Stewart (2000, 2002). Related analysis of between group inequality was pretty standard at the time, see for example Cowell (2000), and for the principle of “horizontal equity/equality” in terms of “equal treatment of equals” Plotnick (1985), and as distinct from vertical inequality, had been in use before this. See also Horowitz (1985).

A theory of politics offers an important amendment to the horizontal inequality literature that has relied on psychological explanations -- a version of Gurr's theory that people resort to violence when they feel relative deprivation -- to link HI to violent outcomes. The reasoning proceeds as follows:

“Existing socio-economic horizontal inequalities can arouse severe ethno-political grievances and tensions which in turn might escalate into violence. Within the HI framework, the risk of violent group mobilisation is hypothesised to increase especially when people are convinced that their socio-economic deprivation and lack of development are caused by deliberate exclusion and discrimination against their ethnic, religious or regional group by the state.” (Brown, G. K. and Langer, 2010).

Such psychological explanations may be true of course, but they fail to explain when and why people become convinced that their deprivation is caused by deliberate exclusion and discrimination. A lot rides on people's perceptions of their circumstances and their perception of where to lay the blame for those circumstances. Those perceptions are shaped, I contend, by the routine forms of politics, including contentious politics, that shape the context of, and sometimes the alternative to, violent conflict. In order to explain stability and/or conflict, the concept of horizontal inequality needs a theory of politics.

The proposition that the coincidence of ethnicity and class produces a distinctive kind of politics is a good place to start. That insight can be further theorized and developed through the lens of intersectionality – a research paradigm that focuses direct attention on intersecting categories of difference.

In her 2001 lecture on horizontal inequality, Stewart argued that ethnic groups may experience inequality with respect to political power, resources, and social services. She took for granted that the “group” was an ethnic group, and her concern was that, in some societies, ethnic groups would experience more than one type of inequality.

Groups that suffer from horizontal inequality are distinct in part, however, precisely because they are constituted by multiple exclusions. Indigenous people in Mexico (and in most of the rest of Latin America) simultaneously occupy at least three distinct categories of difference, along lines of ethnicity, race, and class. An intersectional approach highlights something that is currently absent from the horizontal inequality literature. Although ethnicity is a potential component of indigenous identity and politics, it is not its organizing principle. Indigenous politics and identity are not reliably ethnic.

An intersectional approach presumes too that the relationship between categories is an open empirical question: one may be dominant, the dominance of different categories may shift over time, or two or more categories may interact to produce a distinctive political space and agenda. Moreover, the relative salience of ethnicity will depend on politics itself. The objective “fact” that a social category is both ethnically distinct and poor will matter less than how or whether its politics reflect the coincidence of class and ethnicity. This might explain why horizontal inequality has mostly *not* led to social instability in the part of the world where it has been, arguably, most pronounced – Latin America. Notwithstanding the fact that indigenous people in Latin America are distinctive along lines of ethnicity, race, and class, indigenous politics has almost always revolved around class demands for land and resources.

Ange Marie Hancock has drawn a distinction between what she calls a multiple approach and an intersectional approach (Hancock 2007). The multiple approach recognizes the importance of two or more categories in shaping politics and identities, but keeps those categories conceptually independent. An intersectional approach, she argues, is different because

it focuses attention not on the categories themselves, but on the ongoing interaction between categories (Hancock 2007, p. 67). Ethnicity may inflect class to generate a type of politics that is distinct from what a politics of ethnicity or class would look like on its own.

An intersectional approach also pays close attention to the ways in which the relationship among categories such as race, class, and ethnicity is shaped through dynamic interaction between individuals and institutions. Hancock argues that a multiple approach conceives that relationship as predetermined and fixed, whereas an intersectional approach highlights how such categories gain and lose traction, change or ossify, in endless interaction and political engagement (Hancock 2007, p. 64). One distinctive characteristic of indigenous opposition to wind technology is its dynamic deployment of multiple political categories and demands.

Finally, an intersectional approach highlights the existence and politics of differences within groups we often think of as homogeneous. Although most indigenous people are poor, there are also class differences within indigenous populations. Although most indigenous people claim a distinctive cultural heritage, some continue to practice a distinct set of traditions, and/or to speak an aboriginal language, and others do not. Some indigenous people are recognizable (to others in their own society, according to common standards) as racially distinct; others may not be. Intersectionality captures the within-group diversity that often marks indigenous politics.

In short, the politics of horizontal inequality is a politics of intersectionality and hybridity. Indigenous people may engage in ethnic politics, but they are not an ethnic group (Chandra, 2001). Whether they make demands for recognition, redistribution, protection or political voice is not predetermined by the existence of a common heritage, but an evolving outcome of political engagement itself. Whether they develop consensus, and are able to speak as a single political unit, is also an evolving political contingency rather than a natural corollary of indigenous group identity. In particular when the legitimate concerns and demands of indigenous people clash with the legitimate goals of governments and development institutions, and when “free prior and informed consent” is a condition of development, an intersectional lens may offer a better perspective on what is possible and how to get there.

### **Demography in the Isthmus**

Oaxaca is one of the three poorest states in Mexico. Almost 62% of the population lives under the poverty line, and more than 23% live in extreme poverty. Whereas Mexico’s per capita GDP has climbed to US \$9640, the poorest 20% of the rural population earns only \$456 per year – just over a dollar a day. More than 16% of the population of Oaxaca is illiterate, which is well above the national average of 7%. 18% of the population over the age of 15 has never set foot in a classroom. In the Isthmus of Tehuantepec, a rural and marginal region in an already poor state, extreme poverty is endemic (World Bank, 2013).

According to the World Bank, service delivery is especially poor in Oaxaca, in part because the state is bureaucratically stratified into 570 different municipalities (World Bank, 2013). One quarter of all the municipalities in the country are located in Oaxaca, and 418 of those municipalities are governed by “usos y costumbres” – a diverse range of traditional indigenous practices and customs of election and governance. The remaining 152 are governed by partisan elections. The sheer number of municipal governments in the state, coupled with the diversity of forms of government they employ, complicates service provision – especially in the most remote rural areas.

Oaxaca is better known, however, for having the largest indigenous population in Mexico, with more indigenous language speakers than any other state in Mexico. Almost half of

the population identifies as indigenous, and 34% speak an indigenous language. Between 10 and 15 % of the population speak only an indigenous language. Oaxaca's indigenous people belong to sixteen different ethno-linguistic groups, all with different traditions, cultural practices, and languages. Whereas indigenous cultures and populations have died out in much of Mexico, they are still very present in Oaxaca, sustained in part by the fact that much of the state is mountainous or remote, and not easily accessible.

Nearly one third of the people who live in the Isthmus of Tehuantepec belong to one of 10 indigenous nations: Chinanteco, Chontal, Huave, Mazateco, Mixe, Mixteco, Nahual, Popoluca, Zapotec, and Zoque. The West coast of the isthmus, where the Mareña Renovables project was scheduled to be sited, is inhabited primarily by the Ikojts people. Because their livelihood, beliefs, and traditions are so dependent on, and intertwined with, the ocean, they are also called Mareños – people of the sea.

### **Strategies of engagement**

The enormity of the wind turbines themselves, and of the infrastructure it takes to install and run them, has only slowly begun to sink in among the communities of the isthmus. In community consultations, corporate representatives have shown people model turbines the size of dinner plates (Christian Science Monitor, 2012). Although community members probably knew they would be bigger than that, they had little sense of how much bigger.

The 3.0-megawatt Vesta V112 turbine from Denmark has blades that are 184 feet long and sweep an area of more than 2.4 acres. The blades are attached to a nacelle – a rotary and electricity converting machine the size of a bus – at the top of a 276-ft tower. Altogether, the tower and blades reach 459 feet high and weigh 267 tons. The top speed of the blades is 232 mph. The steel tower is anchored in a platform of more than a thousand tons of concrete and steel rebar, 30 to 50 feet across and anywhere from 6 to 30 feet deep. Shafts are sometimes driven down farther to help anchor the platform, which is critical to stabilizing the weight of the turbine assembly (National Wind Watch, 2000).. The area around the turbines is usually restricted because the turbines themselves are dangerous high voltage electrical devices. Ideally they are installed in uninhabited areas, although in the isthmus they are often located amidst homes and working fields.

The trucks used to transport the equipment to the site of installation are also massive – extremely heavy, wide, and long. Where roads exist they must be widened and straightened, and almost always strengthened to carry the extreme weight they are designed for. Even the access roads that are part of the project, which seem innocuous enough, have a major impact on the landscape, environment, and movement of the communities they bisect.

The Ikojts live on the shores of two extensive inland lagoons on the Pacific coast of Oaxaca. The two lagoons are divided by a long and narrow sand spit and an inhabited island. The island is so remote that its inhabitants are said, by anthropologists, to practice a uniquely unalloyed traditional culture. The lagoons and the sand bar are at the center of the livelihood and cultural practices of the communities, whose beliefs and lives revolve around the rhythms of the sea and the life of the lagoon. The Ikojts make a subsistence living from fishing and harvesting shrimp in the lagoon.

Mareña Renovables planned to erect 102 turbines along the Barra de Santa Teresa, the narrow strip of land separating the upper and lower lagoons. Along with the turbines, MR planned to construct access roads, six docking stations, and two substations along the bar. They also planned to run electricity transmission lines under the floor of the lagoon. According to the

Indian Law Resource Center, each turbine requires 200 square metres of cleared land around it. Since the Barra is only 108 meters wide, and turbines were scheduled to be erected 200 meters apart, connected by access roads, most of the sand bar would have been denuded of the mangroves that hold together the weak soil layers of the narrow land spit.

Most of the land in the isthmus, and all of the land that Mareña Renovables planned to use for its development project, is communally held. Such communal land is not directly comparable to Indian reservations in the U.S. or treaty land in Canada. Instead it dates back to the land reform promised by the Mexican revolution, redistributing land to peasants in communally-held tracts called ejidos. Although that redistribution returned much land that had been privatized to indigenous people, it was part of a socialist political agenda oriented toward peasants. Ejido collectivization did not, for the most part, preserve indigenous ancestral land or communities. In fact, it substantially reorganized rural living patterns and transformed communal life and governance among indigenous peasants.<sup>7</sup>

In 1992, Article 27 of the Mexican Constitution was reformed to prohibit any future land redistribution and expansion of communal lands, allowing the privatization of communal resources. The reform however, did not require ejido privatization and in fact, especially in southern Mexico, it has engendered very little actual privatization (Perramond, 2008). In practice, however, ejido land can now be leased for periods of up to 30 years, and it is those long term leases that wind farms are trying to secure. The fact that the land is held communally, but farmed independently by individuals who have “long term use rights to particular parcels of land” complicates those efforts (Brown, 2004).

In the roughly two years between the time that the communities became aware of the extent, location, and imminent construction of the Mareña Renovables Wind Project, and the time that the project was re-sited, community members engaged in a wide range of political actions, deploying different strategies, engaging different counterparts, and making different demands. Although much of that politics followed the scripts of indigenous politics in Mexico, broadly construed, it did not consistently rely on ethnic identities or strategies.

Initially, for example, politics was oriented toward the local level, within the community, and it was mainly about political exclusion and the legitimacy of the municipal government. Although there may well have been consultation regarding the initial project associated with Preneal back in 2004, it is far from clear that such consultation included all of the relevant stakeholders, or that the community was fully apprised of the scope and impact of the wind farm. According to *La Jornada*, an assembly must include three fourths of the community population and an initiative must secure the support of two thirds of the community to pass *La Jornada*, (2013).

San Dionisio del Mar is the seat of the municipal government of three villages: San Dionisio del Mar, San Dionisio del Mar Pueblo Viejo, and Huamuchil. Like most municipalities in Oaxaca, San Dionisio is governed by *usos y costumbres*, and its leaders are selected by traditional practices rather than electoral party politics. The mayor of San Dionisio del Mar legitimately claims the mantle of “traditional leader” of the people he represents. Nevertheless, the mayor is also well known to be affiliated with the PRI – the party that governed Oaxaca until 2010 through a highly coordinated party and patronage network.

Preneal allegedly began to pay the municipality a land lease fee once it reached agreement in 2004, but members of the community of Pueblo Viejo, where the 102 windmills

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<sup>7</sup> Jan Rus

were actually scheduled to be located, claim they never received any money. In 2011, after the project was purchased by Macquairie, the municipal president appears to have agreed to allow the initiation of construction, and to have accepted either \$14 or \$20 million pesos in fees, without community consultation. When community members discovered the scope of the project, and that construction was imminent, it was the people of Pueblo Viejo who initially held an assembly on August 2, 2011 and decided to reject the project. On the 19<sup>th</sup> of August, a second General Assembly met in San Dionisio del Mar, including members of its two municipal agencies, Pueblo Viejo and Huamuchil, the mayor, the treasurer, and the municipal secretary. At that meeting community members again agreed to reject the project.

The mayor, however, consistently ignored the outcomes of such consultations. At the second assembly in August, the mayor refused to revoke consent for the project. In January 2012 community members occupied the municipal palace of San Dionisio, ejecting the mayor, forming the General Assembly of the People of San Dionisio, and declaring themselves in resistance. In February 2012, members of the community filed a formal motion with the state of Oaxaca to revoke the mandate of the mayor. They continued to occupy the municipal building for the remainder of that year.

Divisions within communities have, in fact, been common in the context of corporate and Mexican government negotiations to secure free prior and informed consent from communities where they hope to site wind farms.<sup>8</sup> Instead of involving the entire community in protracted and complex discussions and negotiations over projects, government and corporate officials have sometimes simply secured consent from the traditional leader of a community, presumably on the assumption that he can credibly speak for his community. But intersectional approaches to the politics of identity groups are especially good at highlighting the existence, and dynamics, of fissures within groups.

Some of those fissures were pre-existing. Pueblo Viejo is more remote than San Dionisio del Mar. The people who live there are more traditional, more isolated, more likely to speak only the Ikojts language, and more closely tied to the lagoons as a source of livelihood and as the site of sacred rituals. They are also, for the most part, poorer than the people of San Dionisio del Mar.

The fact that the mayor is a well-known PRI-ista points to another schism within the community. Scholars have pointed out that the PRI government's decision to allow municipalities in Oaxaca to be governed by *usos y costumbres* was in fact a strategy designed to insulate PRI-aligned municipal leaders from electoral competition. But not all members of communities are PRI-istas. PRI members are a faction, normally a fairly powerful faction, of many communities in Oaxaca, and it is common to hear community members describe political conflict in terms of political parties – as in “the PRI-istas came and attacked us” or “the PRI-istas control access to the medical clinic and refuse us treatment.”

But some of these fissures are created, or exacerbated, by the wind farms themselves. Such farms affect different members of the community differently. In this particular case, the land that was actually going to be used for the turbines was within the municipality of San Dionisio del Mar, but belonged to, or was traditionally used by, the village of Pueblo Viejo. Their greater proximity to the project, coupled with their greater use of the Barra Santa Teresa for both cultural and economic practices, made them more vulnerable to the impact of the construction and operation of the turbines than the inhabitants of San Dionisio or Huamuchil.

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<sup>8</sup> Anaya's report

Observers of the process of securing consent to build wind farms in the isthmus also allege that corporations have been known to sow divisions within communities. Although ejido land is held communally, it is farmed in individual parcels. Corporations have been known to approach farmers as if they are individual landholders, securing rights to lease individual parcels of land without the approval of the community as a whole. Corporations have also been known to offer different amounts of compensation to different members of a community. Ben Cokelet, the director of the Project on Organizing, Development, Education, and Research and a close observer of wind farm development on the isthmus, claims that “The first guy or two that bites gets [\$8] per square meter. That’s a hundred times better contract than the other people. The 98% of farmers who sign afterwards sign on for rock bottom prices. Those one or two people who bite – they don’t bite because they’re lucky. It’s because they know someone. And their job is to sell it to all their neighbors.” (Upside Down World, 2012). In Oaxaca, access to the benefits of wind farm development depends primarily on ties to the ruling party.

In April 2012, members of the community resorted to non-violent direct action when they physically prevented road crews from laying out access roads on the Barra and set up a permanent watch to obstruct construction. In August a member of the General Assembly was attacked as he was walking home in the evening. He was subsequently refused treatment at the health clinic, which was still controlled by the mayor. In October, a caravan of support for the “community in resistance” was violently prevented from entering San Dionisio by PRI-istas hurling stones. Leaders of the General Assembly, and a number of people who aligned with the resisters, claim to have received death threats from PRI-istas, also understood, in context, as members of the mayor’s faction.

In response to that and other incidents of violence, the General Assembly reoriented its political strategy, supplementing demands for political inclusion and voice with allegations of human rights abuses. In August 2012, the General Assembly filed a request for interim equitable relief with the Inter American Court of Human Rights (IACHR), alleging that death threats, intimidation, and the illegal use of public force to support the Project seriously threatened their life and personal integrity. The legal grounds for the request were the “urgent need to prevent violation of the right to life and personal integrity” protected by the American Convention on Human Rights and ratified by Mexico.

As the Indian Law Resource Center has noted, there is room for potential tension when indigenous people, vested with collective rights, request protection for human rights that have been formally conceived as individual rights (Indian Law Resource Center, 2015). Such tensions are further exacerbated when the victims and perpetrators of those human rights abuses are members of the same community. Although it is not uncommon for indigenous peoples throughout the Americas to try to raise the profile of their struggles, and to seek protection, by going directly to the IACHR, requesting protection for their human rights may be seen as a political strategy that actually challenges the ethnic and ostensibly collective aspect of their identity.

In September, the General Assembly, along with various other organizations, including *Grupo Solidario La Venta*, *Asamblea en Defensa de la Tierra y el Territorio de Juchitán*, *Centro de Derechos Humanos Tepeyac*, and *Unión de Comunidades Indígenas de la Zona Norte del Istmo* convened a high profile national *encuentro*, gathering 300 activists from 25 organizations in Mexico to raise awareness about the crisis in the isthmus and “to build support for a large scale national plan of action to resist megaprojects such as wind farms.” (Upside Down World, 2012). As a type of political event, in which people come together for days of political speech-

making, networking, strategizing, and community building, *encuentros* were popularized by the EZLN. They offer observers important insight into what type of movement is being built or, put another way, what types of groups and issues are working in solidarity. The *encuentro* that convened to resist wind development in the isthmus in fact included many organizations that have met before in the context of solidarity with the Zapatistas, including indigenous groups, trade unions, human rights organizations, environmentalists, and anti-WTO activists.

The following month, members of the General Assembly, joined by some of their allies, decamped to Mexico City, holding rallies at the offices of the Inter-American Development Bank, Vesta, Mitsubishi, Coca Cola, FEMSA, and the Danish embassy. They were allowed to present written complaints to Vesta, the IDB, and the Danish Embassy. In November, with funding and organizational assistance from Dutch trade unions, representatives of the community planned to travel to the Netherlands to present a letter of protest to the Dutch pension fund PGGM.

Opponents of the wind project secured an important legal victory in early December 2012, when they filed an amparo petition for constitutional relief with the Seventh District Court in Oaxaca.<sup>9</sup> On December 7<sup>th</sup> the court granted “interim equitable relief” in favor of San Dionisio, arguing that the wind park violated both rights to communal land ownership and the principle of free prior and informed consent. The court ordered temporary suspension of the project “to prevent the respondent authorities from partially or fully, temporarily or definitively, depriving the complainant population group of the agrarian properties, with respect to the lands located on the Barra Santa Teresa...” Indian Law Resource Center (2015, p. 15). The judge’s decision stipulated that the agreement between Mareña Renovables and the mayor violated the constitutional land rights of the community.

Another important breakthrough occurred in December 2012 when Leonardo Crippa, a lawyer with the Indian Law Resource Center in Washington, D.C. submitted a Request for Consultation and Compliance Review to the Inter American Development Bank, asking the Bank to reconsider its support for the project because it “adversely, directly, and materially affects the Ikojts (also known as Huave) and Binniza (also known as Zapotec) indigenous communities located on the Isthmus of Tehuantepec...” The request was submitted on behalf of an organization called The Assembly of Indigenous Peoples of the Isthmus of Tehuantepec, and the main claims it takes up are about the threat of development to the ethnic culture and practices of the indigenous people.

The Request claims that the Bank has failed to comply with many of its own policies and guidelines in funding and supporting the project, including its Operational Policies regarding Access to Information; Environment and Safeguards Compliance; Disaster Risk Management; and Involuntary Resettlement. But in particular it says that this request specifically addresses the failure to comply with the Bank’s Indigenous Policy (OP-765). The Indian Law Resource Center took up this case because of the project’s impact on indigenous people in particular, and the case they built against the project focused on its impact on indigenous autonomy, culture, traditions, sacred sites, and belief systems.

The request begins by identifying the people and lands that are affected by the project. “The Ikojts and Binniza communities are intimately linked to the Barra de Santa Teresa,” which “constitutes the center of the territory of these communities in geopolitical, economic, and cosmological terms.” The Request goes on to describe the connection at length.

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<sup>9</sup> See [El Universal](#) (2012).

“The communities have a special cultural spiritual, and physical relationship with the land, natural resources, waters, lagoons, and sea shaped by the Barra. Punto Tileme, one of the most important sacred sites, where the communities hold their traditional ceremonies, is located within the Barra. In addition, all along the Barra there are numerous sites and camps where rites are held to pray and express gratitude for fishing, as indicated by the place-names of these sites. They are all connected by paths that the communities travel in the ancestral tradition as part of pilgrimages to Punto Tileme and the shores of the lagoons.”

The Request then goes on to specify the harms that have already been, or will be, caused to the affected communities through construction of the project, including harms to their “systems of self government and physical integrity,” “land, territory and resources,” “way of life, cultural integrity, and traditional knowledge,” “environment and biodiversity,” and “food security and traditional subsistence economy.” Each of these headings is described at length.

Mr. Crippa concludes the Request pointedly. “Lastly, after studying the effects on the requesters and the Bank’s omissions, it becomes relevant to ask ourselves whether we are dealing with a project that excludes the Ikojts and Binniza communities from its benefits for ethnic reasons. Note that in all the public documents of the Project not one reference is made to the indigenous communities as beneficiaries of the Project’s benefits in terms of wind energy.” This last allegation responds directly to the Bank’s Operational Policy regarding indigenous people, which states at B 4.4 d) “The Bank will not finance projects that exclude indigenous peoples on the basis of ethnicity.”

It was not until the case was taken up by the Indian Law Resource Center, some sixteen months after opposition started to mobilize against the wind farm, that the protagonists and their concerns were portrayed in distinctly ethnic terms. That portrayal, moreover, was not primarily motivated by the activists themselves, although they furnished the details of how the wind farm would affect their culture and spiritual practices, but instead by the Indian Law Resource Center, which framed the Request to the IDB in terms of the violation of its Indigenous Policy. The Bank’s Indigenous Policy also played a role in re-framing the protagonists and the issues at stake because the policy itself commits the Bank to respect and protect indigenous culture and practices. Any complaint to the IDB would have to demonstrate that indigenous culture and practices were threatened by a project the Bank was funding.

The IDB’s OP 765 also takes up, and pledges to protect, respect, or enhance the livelihood, resources, and territorial integrity of indigenous people, to increase the availability and quality of social services, to develop initiatives that provide indigenous people with better access to labor, production, and financial markets, and to promote what the Bank calls “development with identity.” Such commitments reflect Bank recognition that indigenous people are constituted not only by ethnic particularism but also by political and economic exclusion.

The Bank’s commitment to “development with identity” also reflects an intersectional conception of indigeneity in the sense that it focuses attention, as Hancock says, on the interaction between the categories of class and ethnicity rather than on the categories themselves. “Development with identity” is designed “to promote indigenous social, economic, political, and organizational development through socioculturally appropriate activities and operations and innovative mechanisms.” The goal is to improve indigenous well-being without undermining indigenous ways of life.

One way to attend to development with identity is through programs that specifically target indigenous beneficiaries. The other is to identify ways indigenous people could benefit from projects that do not directly target them. The issue of who benefits from the wind farms is

an important component of the grievance against them. Many communities in the isthmus lack electricity, and yet the power produced by the wind farms located on their land is sold to multinational corporations like Coca Cola and Heineken. That violates their sense of justice, and highlights just how much indigenous identity in Mexico is constituted through poverty and exclusion, and not only cultural difference.

At the end of December, Oaxaca state police were sent to San Dionisio to secure conditions to hold an assembly in which select community members would vote to approve the wind farm, to undercut the court's objection that the project had not received free prior and informed consent. According to news reports, "In a communique, the state government affirmed that it had ordered agents of the state police to the community toward the end of creating conditions for the execution of the assembly." The president of the community reported that 400 community members had voted "in assembly" to support the project. Leaders of the opposition maintained, however, that such an assembly had never occurred, although confrontations between state police, supporters, and opponents of the project left twelve people injured.<sup>10</sup>

In the long stand-off that followed, the community in resistance was subject to continued death threats and intimidation. The governor of Oaxaca worried that Macquairie would move its investment elsewhere if it continued to meet resistance from the landholders. At one point he warned that "blood would flow" if the opposition did not relent. Macquairie had, in the meantime, evidently begun to investigate the logistics of moving the wind farm to a different location, roughly 50 kms from San Dionisio. By early 2013, Mexican newspapers were reporting that Mareña Renovables had been canceled (La Jornada, 2013). In early 2014 Macquairie confirmed that the project would be re-named and moved to Juchitán de Zaragoza.

According to La Jornada, negotiations to secure free prior and informed consent from the community of Juchitán de Zaragoza began in October 2014 and went on for eight months. This project was the first in Oaxaca to go through a new review process that attempted to comply with international regulations for a transparent and inclusive process to secure free prior and informed consent. Consultations took place over the course of thirty assemblies and workshops that included the participation of more than 1300 community members (La Jornada, 2015). In February 2015, the Mexican government and indigenous leaders jointly invited James Anaya, the former UN Rapporteur for Indigenous Issues, to attend a consultation, presumably to lend legitimacy to the process. Anaya wrote a report that confirmed that the process appeared to be sincere, but that it was nevertheless problematic, primarily because it could hardly be identified as genuinely prior, since almost everything had already been decided. The final agreement paid landholders 800 pesos (\$47) per hectare per month, and included an energy trust that would defray the cost of energy for residents and the municipality (Mexico News Daily, 2015). Consent was finally secured, with the support of the mayor and a majority of the municipal population, in July 2015.

And yet in December 2015, the opposition appealed the decision, claiming that the consultation process had been fraught with irregularities. It won a temporary injunction halting construction on the grounds that the CFE, Mexico's energy commission, had short-circuited the process by granting permits and licenses for construction six months before consultations were completed.

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<sup>10</sup> SIPAZ reports

## **Indigenous politics as intersectional politics**

In Latin America, the question has been raised over and over again in the last twenty years. Is a particular political movement, say the MAS party in Bolivia, or the Zapatista uprising and movement in Mexico, really indigenous, by which they mean ethnic, or is it actually a class party – perhaps more socialist or maoist than truly indigenous? For some observers, the question is meant to discount indigenous politics, to demonstrate that indigenous politicians are not sincere, or that they don't really know what they want, or that they are just old-fashioned Marxists dressed in new clothes.

For others the question is analytical. Summing up the consensus, Santiago Anria explains, for example, “To state that the MAS represents indigenous constituencies is not to say that it is an “indigenous” party. Instead, we can conceive of the MAS as a party that presents itself using an ethnic discourse but tries to appeal to a wider constituency by blending class and ethnic elements in a manner that tolerates ethnic diversity.” (Anria, 2013). For Anria, the description of the party's appeal explains its strengths, weaknesses, and differences from other left-leaning parties in Latin America.

The problem with this characterization is the conflation between “ethnic” and “indigenous.” Indigenous people are in fact multiply constituted – by race, class, and ethnicity. Indigenous identity almost always, and always in Latin America, has been constituted by racial structures that excluded the indigenous from such goods as political power, civil rights, or citizenship; class structures that forced the indigenous into peonage or limited their access to goods, resources, and social services; and ethnic structures that demeaned their languages and cultural practices. The fact that the MAS blends “class and ethnic elements,” and in fact other elements that are primarily about civil rights and political voice, is precisely what makes it an indigenous party and not an “ethnic” party. To be indigenous, and to practice indigenous politics, is precisely to bring all three of these constitutive frameworks to bear in the construction of political demands, strategies, identities, and spaces. Indigenous identity is an intersectional identity.

If you are trying to build windmills in the Isthmus of Tehuantepec, why does it matter that indigenous identity is intersectional? First, it matters because it expands the scope of politics beyond the merely ethnic. It is true that indigenous people were able to make themselves heard in such fora as the Inter-American Development Bank by highlighting the threat wind farm construction poses to their spiritual practices and sacred sites. But they also demanded fairer leasing contracts that offer better compensation for the use of their land, and funding for social services, and, often most adamantly, voice and consultation that genuinely matters. Indigenous people do not automatically and reliably make ethnic demands that are intractable or more likely to be zero-sum.<sup>11</sup> Sometimes land is sacred, but not all land is sacred all of the time.

Second, it matters because intersectionality shines a light on the ways in which political engagement itself frames and reframes advancing politics. If you want to build wind farms in the isthmus, you may be able to influence whether indigenous politics turns on ethnic demands or not. Indigenous people do not appear to be more or less likely than other political actors to

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<sup>11</sup> Chandra (2001) makes the point that many of the demands of ethnic groups are not zero sum at all. By negotiating in good faith on demands that are in fact negotiable, wind developers may be able to head off those demands that are non-negotiable or build up the good faith necessary to reach agreement even when the issues at stake are less tractable.

behave strategically. They can access different political spaces – the local municipal building, the construction site, district court, corporate offices in Mexico City, and the IDB in Washington D.C. – with different demands, identities, and strategies. Indigenous identity offers a broad range of politics to get the attention of people in power. As a result, those people in power have some scope to shape politics in productive ways, by negotiating in good faith on those many aspects of wind farm construction that are in fact negotiable.

All too often, indigenous politics is channeled into ethnicity by political processes and forums that require people to invoke threats to their cultural practices, spiritual beliefs, and sacred sites in order to be heard. In Canada and the U.S., aboriginal and Indian people cannot access some rights and legal processes unless they can show that they continue to adhere to “pre-contact” practices and belief systems. The Ikojts’ most viable route to the IDB complaints mechanism was through the Bank’s Operational Policy on Indigenous Peoples. That policy pertains specifically to people who “retain some or all of their own social, economic, political, linguistic and cultural institutions and practices.” (IDB, 2006, p. 1). The Indian Law Resource Center’s request for a compliance review from the Bank focused almost sole attention on the ways in which the cultural practices of the Ikojts would be threatened by construction. That was the first time, in more than one year of near-constant mobilization, that those issues had been foregrounded as the primary issues at stake. Once they were, Mareña Renovables was moved and re-named. Although this was probably a good outcome for many in the opposition who had fought so long and hard against the project, it was also a missed opportunity to implement “development with identity” in a poor community that desperately needs it. Arguably, the community would have been better off if it had been able to negotiate better land-lease terms and re-locating the turbines to less vulnerable or communally important land.

Third, intersectionality highlights a critical error in the way institutions approach indigenous people and the concept of “free prior and informed consent.” Maybe in part due to overwhelming concern for the collective rights of indigenous peoples, interlocutors have often assumed that collective decision-making would lead to consensus and that indigenous communities would, in fact, speak with one voice. It is not only in the Isthmus of Tehuantepec that developers have believed they could secure consent from traditional leaders who spoke, almost as if organically, for their people.

For reasons theorists of intersectionality have long understood, however, the interests of powerful group leaders often fail to coincide with the interests of poorer or more marginalized group members. The Mareña Renovables case highlights just how divided indigenous communities can be. An intersectional lens helps to explain why such divisions are very likely to remain an enduring aspect of attempts to secure free prior, informed, *and lasting* consent in indigenous areas. It is very likely that a one-size-fits-all solution will not work, and that in fact corporations will have to respond to concerns raised by different factions, and to try to produce compromise between factions, in order to get to consent. Like other people, indigenous people have “voices” at least as often as they have “a voice,” and securing free, prior, and informed consent is going to involve attending to those voices.

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