



**Beyond Recognition: Alternative Rights-Realizing Strategies
in the Northern Quiche Region of Guatemala**

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by

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INTRODUCTION

Just before midnight on May 4th, 2010, 130 community representatives from five different municipalities of the Northern part of the Guatemalan province of El Quiche, also known as the Ixil region,¹ set out on the seven hour bus ride to Guatemala City. Each of the three buses slowly rolled down the steep mountainside roads to converge on the pre-established meeting place, the town of Nebaj. Set against the shadowy backdrop of the *Cuchamatanes* mountain range, Nebaj was silent at 1am. Only the ghosts of *la violencia*² along with a few scattered drunks walked the street, casualties from a brutal 36-year attack on un-armed villages that ended 25 years earlier. The mood was cautious and apprehensive as each person was aware of the myriad physical dangers they faced while travelling by night. They had to arrive in Guatemala City by 6am, re-group and organize to arrive on time for their meeting in “*El Salón del Pueblo*,” one of the meeting rooms of the Guatemalan Congress where community members bring forward their demands

¹ The term *Ixil* refers to the dominant linguistic indigenous Mayan language spoken in the region; however, it is important to note that other languages spoken in the region include Quiche, Mam and Qanjobal.

² The term *la violencia* is used to refer to the internal armed conflict. Considering that the ‘armed conflict’ was actually an attack on un-armed community members fleeing from the army and, in some cases, the *guerrilla*, many Guatemalans, scholars and writers refer to this period in Guatemala’s brutal history as “*la violencia*.”

and then wait days, months and sometimes years for a response from Guatemalan authorities. Often, government officials either fail to make the appointment or leave part way through the meeting.

That day, before members of Congress and representatives of the Ministry of Energy and Mines (MEM) and the Ministry of Environment and Natural Resources (MARN), community members of the *Ixil* region demanded the rights guaranteed to them in municipal, regional, national and international legislation. They cited articles 4, 64, 67 and 97 of the Guatemalan Constitution in reference to the right to life, stewardship of the natural patrimony, protection of indigenous forms of land possession and the maintenance of the natural environment. They also referred to a plethora of national laws regarding land ownership, the Municipal Code, the Rural and Urban Development Law and the International Labour Organization’s (ILO) Convention 169³ asserting that their indigenous rights to free prior and informed consent⁴ had been violated. According to information provided to the group by the MEM, there were several large-scale mining and hydroelectric ‘development’⁵ projects

³Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO 2011).

⁴ Free prior and informed consent refers to the stipulations of the International Labour Organization’s Convention 169 on Indigenous and Tribal Peoples. “The Convention deals primarily with the concepts of consultation, participation, free and informed consent, appropriate procedures, and prior consultation in specific circumstances. It requires states to inform Indigenous peoples on projects that may affect them, establish mechanisms to enable Indigenous people to freely participate” (United Nations 2005).

⁵ Throughout this paper, I use the term ‘development’ and ‘development projects’ to refer to the large-scale, top-down mining, oil and hydroelectric projects that are heralded as promoting economic development for indigenous

currently underway in the region (Resistencia de los Pueblos 2010a) for which no formal consultation process had been carried out (Hunt 2010). The *campesinos*⁶ demanded the creation of a new national mining law and were clear in articulating that they wanted to be part of its development and not victims of its content.

The incursion of large-scale 'development' projects in the Ixil region is the object of mounting grassroots indigenous organizing and resistance. Tangible changes to the physical landscape, such as infrastructure construction projects related to the development of hydroelectric dams and mining exploration, are taking place in and around largely indigenous communities. These changes are coupled with a disconcerting increase in military presence as army barracks were re-opened despite the stipulations of the Firm and Lasting Peace Accords (herein referred to as the peace accords) which called for their closure (Resistencia de los Pueblos, 2010b). These events have not occurred 'out of the blue,' however; they are part of

an ongoing process of re-territorialization⁷ and displacement of entire villages that dates back to the arrival of Spanish settlers in the 1500s, the liberal reform period of the 1870s and the Guatemalan and the military's counterinsurgency strategies of the late 1970s and early 1980s. The 130 community members mentioned above were supported by a collective called the *Iniciativa de Memoria Historica* (Historical Memory Initiative, HMI)⁸ which stands out amidst other groups in the region and, perhaps, the country, who are organizing against and resisting historic political and economic exclusions.

HMI is concerned with the security and livelihood of poor people primarily throughout the Quiche region and, more generally, throughout Guatemala. It is not a non-governmental organization and it is not dependent on donor agencies as a source of funding. It is a collective that provides accompaniment to community processes where community members are the social agents of the work carried out. The composition of their initiative is therefore best understood by examining how their work incorporates the voices and concerns of the people they represent. The analysis that is carried out in the communities, while facilitated by HMI, is always part of a collective process that aims to link and uncover the history of the land and the history of the people from the perspective of the community members themselves. The emphasis is on drawing linkages between the past and the present and providing the communities with the information they need to make

communities but that instead serve national and transnational private interests. Development, as espoused by the government and private companies is more about competing in the global free market than about responding to the development needs of communities.

⁶ *Campesinos* is a generic term I use throughout this paper that includes *ladino* (individuals of Spanish and indigenous descent) and indigenous workers living on plantations, *ladino* and indigenous peasants with communally-held land and peasants not working for plantations who own little to no land. The Quiche region has communities that are mostly indigenous; however, there are also sections of poor *ladinos* who live under similar economic and political constraints. Although *ladino* families tend to live in separate sections from their indigenous neighbours, their land and livelihood is also at risk by the incursion of large-scale development projects (Field Notes 2008).

⁷ I use the term re-territorialization to refer to the systematic displacement of Indigenous and rural populations from their lands by government or military policies aimed at gaining control over lucrative regions of the country.

⁸ I have translated all Spanish quotes in this document.

decisions pertaining to their land (Field Notes 2011).

As a result, community representatives of HMI spend much of their time travelling to distinct communities to carry out popular education workshops focused on information-sharing and community organizing (NISGUA 2009; Resistencia de los Pueblos 2010a). During these workshops and meetings, community members participate in their own indigenous languages sharing experiences and knowledge about the land as well as voicing their concerns about how development projects are being carried out in the region. Armed with comprehensive information about what government and private interests are planning in their territory and after carrying out community-generated analyses of this information, these communities are able to contest corrupt state institutions and conventional legal reforms that fail to effectively protect their interests (Resistencia de los Pueblos 2010a).

The analyses and proposals generated by these spaces reject official⁹ renditions of the past and challenge what I refer to as the 'neoliberal politics of forgetting.' The neoliberal politics of forgetting refers to the multicultural discourse that the Guatemalan government has espoused since the signing of the peace accords and which has been used as a tool to counter indigenous contestations over a past that it would rather forget. Elite desires to portray Guatemala as a stable, democratic, liberal multicultural post-conflict nation ready to enter into the global economy has set the stage for their stance on forgetting the past and moving forward (Robinson 2000; Jonas 2000). As a result,

the state has had to develop a new discourse that gives the impression that it has left its violent past behind and has learned to respect 'its' indigenous population. Employing a multicultural discourse at the national and international level diverts attention away from the ongoing racism and violence carried out at the local level. The government and oligarchy has effectively garnered the trust and support of international governments and transnational investment by professing a liberal multicultural image that obscures the on-going racist and exclusionary reality of the Guatemalan socio-political context. The fact that transnational investment has returned with vigor to the resource-rich, war-torn Guatemalan countryside is an indication of the success of this new discourse. This 'peace-time' political project also involves the persecution of anyone who tries to document the past or begin formal legal processes against the perpetrators of the violence that characterized the country at the height of the internal armed conflict

I will argue that, with the support of HMI, the communities' unique strategies of mobilizing their knowledge of past and present human rights violations and injustices amidst an environment of insecurity and corruption is constitutive of a new political project. The communities expose the way that the government, military and the national media purport progressive 'peace-time' development policies and discourses that conceal geopolitical agendas never fully stalled by the peace process. This new political project challenges the state-commercial alliances¹⁰

⁹ 'Official' here refers to government and military discourses.

¹⁰ 'State-commercial alliances' refers to the political and legal alliances formed as far back as the 1954 coup d'etat that overthrew the Arbenz administration and ten years of democratic reform. It refers to the backroom deals that lead to the design and passage of the new Mining Law in 1997, immediately following the peace accords and that favoured transnational companies providing

that developed as a result of Guatemala's neoliberal projects (Robinson 2000) and makes claims to territory and community-based decision-making power in ways that re-assert the importance of ceremonial state processes without giving all the power to the state. It appropriates, adapts and moves beyond the prescriptions of national and international indigenous rights-based legislation that defines 'indigeneity,' culture and the corresponding concept of the 'indigenous community' in ways that ignore local sites of contestation and their social, political and historical contexts. The resultant alternative rights-realizing framework used by these communities appeals to and constructs a 'community' of people who have survived and resisted over 500 years of physical separation and displacement, political divisions and economic exclusions and who face, once again, a threat to their "places of origin, history and life" (Resistencia de los Pueblos 2010b, 6).

HISTORICAL CONTEXT

Throughout colonial and post-colonial Guatemala's history, several re-territorialization processes have taken place that have led to changes in the social and political landscape of the country and brought wide-scale violence and hardship to the indigenous population. The first major process of re-territorialization occurred during the Spanish invasion in the 16th century. Another occurred during the so-called liberal reform period of the 1870s. For the purposes of this paper, I will focus on the next major land

privatization effort that took place during the country's violent 36-year internal armed conflict. During this violent period of Guatemala's history, at least 626 massacres were perpetrated against the indigenous population and over one million people were displaced from their communities (CEH, 1999). As a result of this dispossession, national and international economic interests have staked their claim to some of Guatemala's most important natural resources.

There are two overriding and intrinsically related themes that characterize these re-territorialization processes. The first is the systematic displacement of indigenous people from the land they live on that also happens to have high economic potential. The second is the concentration of the indigenous population into geographically-bound areas of infertile, supposedly non-lucrative land. This process carried out by different Guatemalan elites at different stages in Guatemalan history is reminiscent of what Harvey (2005) terms "accumulation by dispossession" which is a key element of liberal and neoliberal economic reform (Harvey 2005). Harvey describes the concept of accumulation by dispossession by pointing to the ways in which private companies, since the 1970s gain the majority of their profits from the privatization of social goods that requires the dispossession of poor people. It involves the "reversion of common property rights into the private domain [and resorts to] cooptation, marginalization and repression when there is opposition" (165).

An examination of the geo-political strategies of the Guatemalan state and military during the height of the late 1970s and early 1980s helps to understand how this significant re-territorialization phase took place and its connection to mineral extraction and hydroelectric projects. The displacement of entire communities was

them with 99% of net earnings (ACOGUATE, 2009). It also refers to the political and economic alliances that have taken place at the local level in the Quiche region between former military leaders, such as captains, military commissioners and civil patrollers (PACs) and national and transnational business interests.

accompanied by seemingly democratic political and legal initiatives that helped Guatemala develop its international image in order to facilitate its transition into the global economy. This period in Guatemalan history is essential to understand present-day struggles over indigenous land rights and to the neoliberal politics of forgetting.

THE CONSOLIDATION OF MILITARY POWER AND NEOLIBERAL 'DEMOCRATIZATION'

The year 1982 marked the beginning of a territorial struggle for power between the traditional oligarchy and the *nouveau riche* which included military officials who gained access to capital as a result of alliances made during the 1960s land reforms. The struggle for power created divisions within each side as oligarchy families literally married with military families and new alliances formed (Solano 2005). This crisis of the traditional Guatemalan elites led to what Robinson (2000) refers to as the transition from authoritarian rule and dictatorships to 'new polyarchies.' He argues that this transition to polyarchic regimes brought with it "new 'modernizers' and 'technocrats' [who] have pursued profound neoliberal transformation" (92). These divisions amongst the traditional Guatemalan elites and the evolving competition with the new military entrepreneurs have generated an intense struggle over access to prime territory for the exploitation of natural resources.

In 1982, the Guatemalan Army drafted the National Plan for Security and Development which was supposedly designed to deal with economic development and the harsh social inequalities that existed so that the poorest people could move toward economic recovery. The plan was more focused, however, on eliminating

opposition to the state than instilling long-term socio-economic change that would benefit Guatemala's rural poor (Smith 1990a). In the end, the 'development' objectives of the army were never fully implemented and the only economic changes carried out in the region fell in line with the needs of the country's elites including

remov[ing] indian peasants from one large 'undeveloped' zone slated by Guatemalan businessmen (many of them members of the military) for forest clearance, cattle ranches, and the extraction of minerals;...forcibly nucleat[ing] dispersed farming populations so that they could not farm, forcing them to seek wage work in order to survive; and... *reduc[ing]* peasant economic self-sufficiency throughout the highlands (Smith 1990a, 13; my emphasis).

Militarized villages, also known as 'model villages' or *polos de desarrollo* (development poles) were an important component of the military plans developed as part of the counterinsurgency strategy (National Security Archive 2009). These model villages were built after communities and their inhabitants were relocated or given 'amnesty'¹¹ to come out of hiding in the mountains (National Security Archive 2009; Comisión Interamericana de Derechos Humanos 1985). These development poles had less to do with

¹¹ The amnesty was directed towards members of the guerrillas who wanted to turn themselves in. Since the army was suspicious of indigenous support of the guerrilla, this promise was extended to people who had been hiding in the mountains and, in many cases, under siege from the army. If they were to turn themselves in, supposedly they would not face any repercussions or interrogations. This, however, was not the case. For an extended discussion of this see CEH (1999); Stoll (1993); and Falla (1994).

aspirations of ‘development’ than they did with the maintenance of security and the surveillance of potential guerrilla supporters (Smith 1990a). As part of the pacification strategies (Shirmer 1998), they served as a weapon of war used by the Guatemalan army to re-order indigenous communities and politically and spatially set the stage for neoliberal reforms. By displacing people from their land, the military facilitated the ongoing privatization of land (Smith 1990a). Thus, during this period, social inequality increased creating the conditions for the consolidation of power and elite economic interests. As Harvey (2005) argues, despite the claims of neoliberal philosophy and its proponents, social inequality is actually the *raison d’être* of neoliberalism in that it assures that those who have access to the means of production maintain power over resources and, ultimately, poor people.

With the countryside under the control of the army, the state needed to turn its attention to its growing debt crisis. The neoliberal response to this debt crisis was to enter into the global free market in order to trade Guatemala’s traditional export products such as sugar and coffee and re-start the process of natural resource extraction, stalled in the 1970s. The construction of highways and hydroelectric energy projects would be essential to this economic revitalization endeavour (Solano 2005). To attract international investment and demonstrate to the international community that it moving toward democratic transition, a new constitution was drafted in 1985 and the peace negotiations began. In the years leading up to the signing of the peace accords, several seemingly progressive ‘indigenous’- friendly laws were passed. For Guatemala, a country closing the final chapter of a 36-year internal conflict that saw the wide-scale destruction of hundreds of mostly indigenous villages, it

was important to affirm a new national image as peace-loving and indigenous-loving.¹² This nationalism brought with it the deliberate incorporation of cultural rights and ‘intercultural equality’ and “coincided with the growing influx of the economic policies and political practices grouped under the collective term ‘neoliberalism’” (Hale 2007, 35).

In the wake of the 1992 commemoration of 500 years of indigenous resistance to colonialism, the rights of indigenous people became an integral part of liberal philosophy and discourse on the politics of recognition and the trend toward a multicultural identity of global citizens (Nelson 1999; Hale 2007). In March, 1996, President Álvaro Arzú Irigoyen and leaders from the umbrella group of guerrilla organizations, the *Unidad Revolucionaria Nacional Guatemalteca* (National Revolutionary Unit of Guatemala - URNG), signed the Agreement on the Identity and Rights of Indigenous Peoples as part of the broader negotiation of the peace accords. It was designed to recognize “the existence of traditional systems of community organization” (Dardon & Chavez 2006). The Arzú administration also ratified ILO Convention 169 even before the peace accords were signed.

The Agreement on Indigenous Rights and Identity is particularly far-reaching in terms of the promises for incorporating political participation of indigenous people into the constitution. Specifically, it “mandate[s] a constitutional reform redefining Guatemala as a multiethnic, multicultural, and multilingual

¹² Part of Guatemala’s post-peace accords nation-building project continues to include the appropriation of Mayan indigenous culture and practice as its ‘cultural patrimony.’ Tourism Guatemala has extensively used Mayan symbols and photos of Mayan women to promote Guatemala nationally and internationally.

nation...It lays the formal basis for a new entitlement of Guatemala's Indigenous majority and establishes their right to make claims on the state" (Jonas 2000, 16). The Arzú government was under international pressure to incorporate indigenous rights into the Guatemalan legal structure and, since this was a stipulation of the peace accords and 'international eyes' were on Guatemala, the government had little choice but to ratify the agreement. This would demonstrate to the world that Guatemala was starting fresh and leaving its racist past behind.

To further facilitate the process of forgetting, the government touted its commitment to democratic transition and set in motion several laws pertaining to decentralization and democratic participation. In 2002, the state drafted a new set of decentralization laws including the General Decentralization Law¹³ (Organization of American States 2002) and revamped versions of the Municipal Code and the Law of Urban and Rural Development Councils which created the local community decision-making structure of the Community Development Councils (COCODES).

The COCODE structure is designed to enable villages associated with a municipality to put forward funding proposals for small-scale development and infrastructure projects. The Municipal Council then has the final say on whether or not these projects are approved, however, and despite the fact that representatives from the COCODES are, according to the law, entitled to participate in the Municipal Council, they are often not invited (Larson 2007). Furthermore, Larson (2007) points out that in certain municipalities in the Ixil region, "[t]he formation of COCODES

has been instigated by the local [municipal] government with, according to accusations, apparent favouritism to supporters of the mayor's political party" (14). As a result, at the level of the village, COCODES do not have the authority or power to define the fiscal agenda of development projects. Moreover, solidified by the military strategies of the early to mid-1980s, the legacy of the army's control has continued in certain regions of the country, including the Ixil region and thus has prevented any real democratic reform from occurring (UDEFEUGA 2010a).

It is within this context of vacant democracy that the HMI, and the communities they support, organize. Before delving into my discussion of the alternative rights-realizing strategies deployed by the communities that HMI supports, I will discuss two sets of literature that will develop the theoretical framework for my analysis. The first set will examine the work of a series of critical anthropologists and socio-legal scholars as they uncover the complexities of top-down indigenous and human rights frameworks imposed on rural populations. The outdated anthropological concept of a community as a clearly-bound site of organization is glaringly misrepresentative of the Guatemalan reality. I will analyze these scholars' arguments within a Guatemalan context and will discuss how 'indigenous' rights laws have failed to protect poor rural people in Guatemala. I also look at the socio-legal literature that examines how groups adapt and appropriate laws in order to more adequately protect their rights.

The second set of literature will examine the inner-workings of the neoliberal multicultural governance discourse referred to above and how it has played out in a Guatemalan context. This discourse is first referred to by Hale (2004) as 'neoliberal multiculturalism.' He

¹³ Ley General de Descentralización Acuerdo Gubernativo 312-2002

argues that as Guatemala transitions to a politics of neoliberal multiculturalism, it creates specific political spaces that appear to add a democratic, non-racist, non-exclusionary component to government. At the same time, however, the state governs those political spaces to ensure that the status quo is maintained. As a result, rural populations have had to design new ways to ‘appropriate’ these political spaces and negotiate the indigenous laws and political opportunities created by them.

INDIGENOUS RIGHTS, COMMUNITY AND CULTURE

Western-derived indigenous rights discourses do not reflect the socio-political and economic contexts of the people they are supposedly designed to protect. Indigenous rights frameworks and laws are based on essentialized conceptions of ‘indigeneity’ and ‘community’ that can lead to the exclusion of certain groups from accessing these rights. These frameworks and laws include generalized assumptions *about* indigenous communities in terms of how they are organized politically and ‘culturally.’ As a result, it is necessary to counter liberal assertions by authors such as Charles Taylor (1994) who assert difference as “resting in a sort of cultural genetics” (Bannerji 2000) and who purport a “modernist conception of the self [where] both the individual within a particular culture and the culture itself must strive to be ‘true to’ their inner nature” (Day 2005, 76).

Since the arrival of the Spanish, the widespread and violent displacement and intentional division of rural, mainly indigenous people has resulted in communities that are not internally cohesive or homogenous. As a result, throughout this paper, I use the term ‘community’ based on Rose’s (1999) work

on emerging linkages between community, identity and political subjectivity. Rose discusses the breakdown of the ‘uniform social citizenship’ that has sought to compartmentalize identities based on overarching social constructions derived from class, race and ethnicity. Liberal multicultural conceptualizations of identity argue that certain identities, such as indigenous peoples ‘should’ be accorded certain rights. In contrast to this, Rose argues that “individuals no longer inhabit a single ‘public sphere [and] their citizenship [is not] conferred upon them through a singular relationship with the state.” (178) Instead, he argues, there is a multiplicity of political subjectivities which are, in turn

linked to new practices of identity formation...[where] it is possible for subjects to distance themselves from the cohesive discourses and strategies of the social state...[and] access a whole range of resources and techniques of subject formation in order to invent themselves, individually and collectively, as new kinds of political actors (Rose 1999, 179).

This invention enables people to move beyond the hegemonic constraints of legal identifications in which they either fit or do not fit.

Several authors have pointed to the dangers of relying on and adhering to state- or supra-state-imposed definitions of ‘indigenous’ and ‘indigeneity.’ As Warren (1998) eloquently argues, “[b]eing Maya is not a singular identity...ethnicity is not a separate domain but rather a product of all sorts of transnational culture flows” (179). Alfred & Corntassel (2005) argue that “in their attempts to establish universal definitions of Indigenous peoples, scholars have rewritten Indigenous histories and

imposed political and cultural limits on the freedom of Indigenous people to live lives of their own choosing” (607). This ties into Rose’s (2005) argument that it is important “to analyze the conditions under which...ideas of freedom and...practices in the name of freedom have come into existence, and to try to clarify the lines of power, truth and ethics that are in play within them” (10).

The ‘rules’ of the Guatemalan nation and the international laws that it has signed onto, as they exist and are played out on the ground, do not reflect the lived realities of the majority of its indigenous population and thus, need to be adapted or even replaced. As Rose (1999) argues:

[i]t is not a question of claiming that the older ways have been erased or consigned to history, but of identifying something new taking shape with and alongside the old arrangements, something different threatening or promising to be born. Its birth is slow, complex; it is conceived out of the intersection of heterogeneous social, political, discursive and technological shifts, often in apparently unconnected fields. But in this process, and despite its family resemblance to now deceased relatives, a novel sense of community is emerging both as a means of problematization and as a means of solution (Rose 1999, 173).

In the example of post-conflict Guatemala, although it was necessary to build the country’s international image with respect to its treatment of indigenous peoples, the ratification of Convention 169 as well as the incorporation of key agreements on indigenous rights into the peace accords have done more to serve the government’s free-trade and large-scale economic agenda than to address systemic racism, discrimination and exclusion. Despite the fact that

‘indigeneity’ is a central component of the decentralization laws, the peace accords and Convention 169, indigenous people’s freedom from exploitation and their incorporation into the politico-legal system were not the central concern when Guatemala ‘signed-on’ to this progressive indigenous rights package.

Considering the relationship between rights frameworks and notions of freedom from historic oppression and socio-economic exclusion, Brown (1995) argues that

rights necessarily operate in and as an ahistorical, acultural, acontextual idiom: they claim distance from specific political contexts and historical vicissitudes, and they necessarily participate in a discourse of enduring universality rather than provisionality or partiality. Thus, while the measure of their political efficacy requires a high degree of historical and social specificity, rights operate as a political discourse of the general, the generic, and universal (97).

Similarly, Bannerji (2000), in her critique of Taylor (1994), outlines how issues of cultural hegemony are ignored, rendering the implications of “ideology, class consciousness and class struggle” (132) obsolete in the struggle for recognition. This is relevant to the Guatemalan context where class, race and gender play a prominent role in the socio-economic composition of society and the determination of access to opportunity and rights. Bannerji’s work problematizes the way that ‘indigenous’ rights have been prioritized over basic civil, political and economic rights that continue to be violated. Many rural struggles to protect land and livelihoods in Guatemala revolve around this latter set of rights given that, in many cases, they have implications for groups’ capacity to survive the impacts of systematic

repression, criminalization and violent displacement from the land and food base.

Li (2000) refers to the opportunities and risks presented to groups that position themselves as indigenous to facilitate their struggles. Drawing extensively on the work of Stuart Hall, she discusses the concepts of ‘articulation’ and ‘positioning’ as they relate to groups who identify as indigenous and subsequently utilize this identity as a means to organize and mobilize collective action. According to Hall, “[c]ultural identities...come from somewhere, have histories...But far from being eternally fixed in some essentialised past, they are subject to the continuous ‘play’ of history, culture and power”(152). If Hall (1996) asserts, however, that collective identities are necessary to political projects of resistance and emancipation, then the definition of what constitutes a ‘collectivity’ needs to be fluid. The notion of ‘fluid’ collectivities is alluded to by Nelson (1999) with reference to Mayan identity. Nelson argues that

Mayan identity seems to be precisely the process of being community-bound: the work itself of education, *formación*, and (re)membering... Given the span of five hundred years and the hostility of colonial identity formation, it thus seems reductive to posit a simple Manichaeian allegory of a ‘true’ difference distinct from an imposed ‘otherness’ or a pure, uncorrupted space from which to confront power (162).

Merry’s (2001) work builds on this analysis as she reflects on how social groups are adapting or ‘appropriating’ international human rights frameworks in order to make them relevant to their immediate needs and local contexts. She examines “how cultural practices [are] introduced, appropriated, deployed, reintroduced and redefined in a social

field of power over a historical period” (46). Li (2007) argues that within corrupt governments where there is an “(un)rule of law, it will be necessary to sort through the tangled webs of power to uncover new sites of contestation” (34) that can be utilized to bring forward complaints. This notion helps to describe the current situation in Guatemala where communities face a corrupt government that lacks the political will to ensure the security and livelihood of its citizens. As a result, these communities develop new strategies to defend their rights and challenge elite power structures. These communities must confront the neoliberal multicultural governance mechanism referred to above. In the following section, I will examine how this mechanism functions in order to contextualize the political space within which indigenous communities organize.

NEOLIBERAL MULTICULTURAL GOVERNANCE AND IDENTITY

Indigenous rights are recognized by the state according to what Hale refers to as the “*indio permitido*” who is able to occupy certain acceptable political spaces, such as the Ministry of Education or Culture but not the Minister of Finance or Defense (Hale 2007). Neoliberal multicultural governance creates a situation where an essentialized indigenous identity is recognized and celebrated by the state; however, in exchange for this indigenous rights package, individuals have to play by the rules of the global free market and as such may only occupy certain political spaces. A dichotomy is created between the ‘backward dysfunctional indio’ and the forward-looking *ladino*¹⁴ subject. According to neoliberal economic frameworks, the former fails to access economic opportunities and therefore

¹⁴ See footnote 6.

does not act in favour of the ‘social benefit of all’ while the latter includes individual “subjects who govern themselves in accordance with the logic of globalized capitalism” (Hale 2004, 17). The result is that such policies stifle indigenous political participation, especially when it contests or stands in the way of neoliberal projects such as free trade agreements and large-scale development initiatives. Indigenous people who reject these initiatives are characterized as anti-development or as being manipulated by external actors who are anti-development. This is another example of the neoliberal politics of forgetting. Indigenous people’s organizing efforts are discredited and attention is averted away from the fact that these groups want to be part of the decision-making processes pertaining to development initiatives on their land.

The appropriation of indigenous culture is characteristic of a neoliberal multiculturalism that has sabotaged and frustrated indigenous attempts to enter the political system in a meaningful way (Hale 2004). Peace-time governments seem to be more interested in showcasing ‘their indigenous people’ as tourist attractions than committing to instill systemic change which would lead to the full recognition and respect for the complex and hybrid manifestations of indigenous identity, culture, legal systems and ways of organizing that have developed over the past 500 years in colonial and post-colonial Guatemala.

Indigenous and *campesino* struggles today have been framed by this history of false promises and lack of political will on the part of the Guatemalan government to implement the indigenous rights package of the late 1980s and 1990s. The perseverance of these struggles is a tireless response to an elitist Guatemalan state. In May of 2007, the Guatemalan constitutional court demonstrated its

allegiance to private interests over indigenous interests when it decided that the community referendums that had taken place since 2005 were considered to be legal and legitimate but non-binding. These referendums were organized primarily by indigenous communities under the stipulations of articles 6, 7 and 15 of ILO’s Convention 169 pertaining to free prior and informed consent (ACOGUATE 2009). As a result of this monumental decision, the government is not under any obligation to change government policy regarding the approval and distribution process of mining licenses on indigenous land despite the fact that 717,968 mostly indigenous people have voted no and rejected large-scale development projects on their land (AVANCSO, 2010).¹⁵ In the next section, I will discuss how despite the decision of the constitutional court and the failure of the Guatemalan government to guarantee the rights to which they are entitled, *campesinos* from the Ixil region adapt local, national and transnational legal strategies in order to once again protect their lives and defend their rights.

“PLANTING HOPE, CONSTRUCTING RESISTANCE”¹⁶

The Historical Memory Initiative (HMI) is a collective based in the Northern part of the department of El Quiché where over two thirds (344) of the massacres took place during Guatemala’s 36-year internal conflict (CEH 1999). This part of the Guatemalan highlands is inhabited by

¹⁵These numbers are from the end of 2010. Out of a total of 721, 437 votes in 57 municipalities in 8 departments only 3339 people voted in favour of large-scale mining projects on their land (AVANCSO, 2010).

¹⁶ This is the slogan that appeared on posters and stickers that community members handed out during the Social Forum of the Americas held in Guatemala City in October, 2008.

various members of primarily Ixil and Quiche Mayan communities as well as some pockets of Q'anjobal, Mam and *ladino* groups. The work of HMI has gathered momentum since the days when its members lived *en resistencia* (in the unarmed resistance movement) (Falla 2009) either as part of the *Comunidades de Poblacion en Resistencia* (CPRs) or as isolated pockets in the mountains escaping army repression.

HMI is comprised of community members from villages located in the Northern part of El Quiche, some of whom are also indigenous and auxiliary mayors¹⁷ and a small group of nonindigenous members *de confianza*¹⁸ based in the national capital. They accompany communities throughout the region and in other parts of the country in gaining access to information about development initiatives. In Guatemala, it is extremely difficult for rural communities to access detailed information about national plans and policies that may affect them and the government makes little to no effort to mitigate this situation. Therefore, the work of HMI provides communities with information they need in order to make informed decisions and respond to proposed government development plans on their territory. The decisions made by the communities and the subsequent proposals presented to government represent an exhaustive process of

community meetings and regional gatherings that centres the community members as social agents. This process of information sharing, analysis and democratic decision-making gives voice to a systematically excluded and silenced population in ways that push the limits of essentialized conceptions of indigenous 'community' organizing and that move beyond the prescribed mechanisms of national and international laws regarding indigenous rights and political participation. (Resistencia de los pueblos 2010a).

In 2005, HMI began a historical memory recuperation project aimed to uncover the unofficial history hidden by official historical accounts (Resistencia de los Pueblo 2010a). The military assaults on indigenous communities caused wide-scale relocation of entire villages. The unoccupied land that was left behind was taken over by the army and in some cases, offered as 'gifts' or sold at low prices to high-ranking generals, local captains, military commissioners and even lower-level civil patrollers in exchange for services rendered during the conflict (Solano 2005). This process of 'accumulation by dispossession' (Harvey 1995) continues to be masked by an anti-communist discourse that claims that the military actions carried out during the late 70s and early 80s were designed to defend the country from communist and guerrilla subversives.

This discourse attempts to cloud over the broader geo-political strategies designed to gain access to the most lucrative land in the region (Resistencia de los Pueblos, 2010a). This discourse forms part of the neoliberal politics of forgetting that HMI works to expose and counter by supporting communities in their efforts to put forward their version of the past (Resistencia de los Pueblos 2010a; Solano 2005). HMI demonstrates how the top-down democratic decentralization

¹⁷ The institutional organization of indigenous mayors has varied throughout Guatemala. In the Ixil region, the indigenous mayors receive financial and institutional support from a local non-governmental organization (NGO) that is dependent on funding primarily from an Italian international cooperation NGO (Field Notes 2008).

¹⁸ *De confianza* means trustworthy which is an extremely difficult feat to accomplish as an outsider to the Ixil region given high levels of suspicion of outsiders and an extremely complex socio-political context that impacts conflict levels.

processes and the laws included in the peace accords and in the ILO's Convention 169 have not succeeded in increasing indigenous participation in the political and economic spheres of the country. They assert that this is a result of the government's prioritization of national and transnational business interests over those of indigenous communities.

“WATER AND LAND FOR THE PEOPLE, NOT FOR COMPANIES”¹⁹

The community meeting described in the introduction was an important political step for HMI and the communities with which it works. It brought forward the demands and opinions of the community members in ways that challenged the format prescribed by the neoliberal rights-based legal framework referred to above. To do this, the communities presented a series of *memoriales* or community manifestos. These *memoriales* were created by various communities in the northern region of El Quiché and include detailed information about local issues and conflicts pertaining to land ownership as well as detailed information about mining and hydroelectric project licenses that either have been approved or are awaiting approval by the Ministry of Energy and Mines (MEM). They also draw attention to the corruption and manipulation that occurs at the local level. By analyzing the content of these *memoriales* and the speeches that the community representatives used to present them to national and international authorities, I will demonstrate that the HMI was utilizing local, national and international laws in new and creative ways that more accurately reflect their lived realities.

The content of the *memoriales* is significant in that it provides a way for

¹⁹ This is a commonly-used slogan in the northern part of the Quiché department.

community members to define themselves and their territory. It also reveals what community members believe to be the most salient concerns affecting their communities and their livelihoods. The *memoriales* name all of the communities that do not exist on official maps but that are represented by the 130 people present at the meeting. To do this, the municipality is written out and then, in brackets, is a comprehensive list of all of the communities that correspond to that municipality. It also outlines the people who were part of the development of the content of the *memoriales*. At the beginning of the meeting in Congress, a representative from the municipality of Nebaj, wearing a *coton*,²⁰ reads the entire content of the *memorial de memoriales* which is the summary of the five community *memoriales*.²¹ This speech²² helps to clarify what the communities refer to when they repeatedly evoke throughout the meeting *la palabra del pueblo*:

We have struggled so that, at the very least, the oldest pueblo of El Quiché is respected. Before the arrival of the Spanish in Guatemala we already existed in our native lands (*nuestras tierras natales*)...[It is] the voice of the pueblo that I bring today and that makes me feel proud to put forth in this moment, in this room, where decisions have been made that go against [the spirit of] our *memoriales*, of the entire Quiché people. We want to say that we represent five municipalities with approximately 130 people with two representatives per community. [In the

²⁰The *coton* is the traditional coat worn by Ixil men on special occasions and during official acts.

²¹ For copies of the *memoriales*: <http://www.resistenciadlp.webcindario.com/pdf/manifiestosixiles.pdf> Accessed December 8, 2010.

²² I have transcribed all speeches and quotes from the video footage archived on the Resistencia de los Pueblos website and translated it from its original Spanish to English.

community] the community mayor and his committee represents, therefore, each village...As a result, we [represent] thousands of *campesinos* and children, women, youth, the elderly [and] men [who] are expressing through our community or municipal referendums or manifestos our thoughts, concerns, proposals and decisions (Resistencia de los Pueblos 2010f).

This speech demonstrates the amalgamation of ancestral authority with the formal democratic procedures outlined in the decentralization laws. As mentioned above, according to these laws, the typical platform upon which the COCODES and community mayors should launch their complaints and concerns over development projects occurring on their land is the Municipal Council (Larson 2007). However, given the corruption of local mayors and their practice of overruling the democratic process of the COCODES by appointing their own political allies²³ the COCODES often do not represent the varying interests of the community and, therefore,

²³Often these political alliances date back to the conflict and thus continue to dichotomize between victim-survivor and military or paramilitary in order to determine which community member has access to certain rights and privileges based on their allegiances during the war. Since many of the mayors were military commissioners, it is often former soldiers or paramilitaries who enjoy the majority of power over 'community-based' decision-making. For a detailed description of an ongoing conflict between the mayor of Nebaj and the local indigenous authorities of the community of Salquil Grande, see UDEFEGUA (2010a). The description outlines examples of physical assault, kidnapping and torture carried out either by the mayor or by his associates against the indigenous authorities of the communities when they contest the mayor's attempt to appoint his allies onto Salquil Grande's COCODE. Furthermore, the description refers to how the mayor filed arrest warrants against indigenous leaders when they tried to denounce these actions as unconstitutional (UDEFEGUA 2010a).

certain voices are excluded. Even when a COCODE functions well, the proposals that are put forward are often ignored or vetoed by these corrupt mayors who are "highly suspicious of the participatory process" (Larson 2007, 14) and who have economic interests at stake in the community (UDEFEGUA 2010a).

As a result, in some villages where community members do not feel represented by the original COCODE, parallel COCODES have formed. Depending on its political allegiances, however, this new COCODE may not be recognized by the Municipal Council.²⁴ In Nebaj, for example, current municipal mayor Virgilio Gerónimo Bernal Guzmán who has strong ties to Rios Montt's political party the *Frente Republicano Guatemalteco* (FRG) continues to wield significant power and is considered to be corrupt (UDEFEGUA 2010). He also announced his support for right-wing presidential candidate General Otto Perez Molina²⁵ during the 2010 International

²⁴This phenomenon has not been adequately documented and needs further investigation and analysis. According to information that I gathered from public meetings and encounters, however, this phenomenon has occurred in many communities throughout the region. If COCODE membership is monopolized by former members of the military or paramilitary then the victim-survivor groups will create another COCODE and vice versa.

²⁵On June 28, 2011, human rights defenders presented a formal report to the UN Special Rapporteur on Torture, Professor Juan Mendez, alleging that Otto Perez Molina was responsible for the torture of Efraim Bamaca in Velasquez in 1992. Otto Perez Molina was a military commander in the 1980s who operated throughout the Ixil region and is well-known. A 1982 film by Alan Nairn shows an interview with Perez Molina in a community in the Ixil region. In the background lie the bodies of several battered prisoners. Perez Molina was also the National Director of military intelligence (Breaking the Silence 2011). To see the video: http://www.youtube.com/verify_age?next_url=ht

Day of Victims in a speech given in front of hundreds of indigenous *campesinos* in Nebaj's central plaza (Field Notes 2010).

With the appointment of two village representatives that do not necessarily form part of the COCODE, the communities presenting their *memoriales* in Congress are adapting the rule as set out by the decentralization laws that two COCODE representatives per village participate in the *municipal* council meetings. First, they have broken the structure by side-stepping their corrupt municipal authorities. Second, while acknowledging the official role, according to the decentralization laws, of the community mayors and their corresponding committees or COCODES, the community representative also acknowledges the community-based processes of decision-making that determined who would be the two village representatives who would participate in the meeting in Congress. By appointing two representatives from the COCODES of each village, they support the letter of the law while rejecting how the law is played out on the ground.

Since community members' voices are excluded at the municipal and sometimes village level, they develop alternative strategies in order for their demands to be heard. To do this, they confirm their ancestral authority and 'indigenous authenticity' by stating that they were living on the land prior to Spanish arrival. They then amalgamate this authority with the rights prescribed to indigenous communities by the neoliberal multicultural decentralization policies. Given that increased local autonomy has not been guaranteed through the official mechanisms set up by these decentralization laws, the community members circumvent the legal protocols

and authority of the Municipal Council by bringing their demands to the national level.

The members of HMI were asserting claims to water, land and life in ways that do not fit within the boundaries of national and international politico-legal philosophies. They challenge hegemonic liberalist rights regimes that require that indigenous populations be located in clearly-bound physical spaces as an unfractured group in order to qualify for 'indigenous rights' (Li 2010). This fits within Merry's (2001) discussion on the ways in which "local human rights activists are struggling to create a new space which incorporates both cultural differences and transnational conceptions of human rights" (31). The information mobilized in the community *memoriales* regarding the situation of indigenous communities draws attention to the unique concerns of these communities in a way that moves beyond the confines of universal definitions of indigenous culture and demonstrates the localized, historicized context of the northern El Quiche region.

Despite the fact that the community members are from different regions, now that they are living together under circumstances of survival and as a result of persecution and racist policies, they continue to make 'historical' claims to the land. People who live in the Ixil region also come from other regions such as neighbouring Huehuetenango and the Ixcán. Therefore, these communities claim that they are indigenous but not necessarily 'indigenous' to a specific area. As a result, claims to cultural homogeneity are difficult to make as are 'traditional' claims to ancestral land. However, I argue that the claims that these community members were making were the claims of a population that has been systematically displaced, massacred and dehumanized for more than 500 years. They see the

[tp%3A//www.youtube.com/watch%3Fv%3DIE N9OBmLdcE](http://www.youtube.com/watch%3Fv%3DIE N9OBmLdcE)

forced migration of their neighbours as intrinsically related to the violence that occurred in their own villages. The slogan they use on their banners and in their public discourse reflects this sentiment: “the same situation, the same resistance” (*una misma situación, una misma resistencia*). Thus, they are asserting a particular conceptualization of indigeneity that comes from their particular context and history. They view the forced displacement of other indigenous and non-indigenous populations as related to their experiences. As such, the spatial and political consequences of this displacement become an intrinsic component of their shared identity.

Since 2006, there has been a marked increase in attacks against community members and human rights defenders in the province of El Quiché. People who own strategic parcels of land with water or mineral sources who refuse to sell their land have been attacked, intimidated or sometimes killed. Rumours that circulate in the communities state that they were murdered by people who want their land (UDEFEQUA 2010a). It is this precarious situation of insecurity related to the high economic stakes associated with these projects that leads the HMI to support communities in the documentation of current events and security incidents related to land prospecting and large-scale development projects planned for their land.

DOCUMENTING LEGAL PERSECUTION OF COMMUNITY MEMBERS

News of police and military repression against communities protesting mineral extraction had reached the Western highlands by the mid-2000s following the events that occurred in two other regions of the country. First, in 2005, in the town of Los Encuentros, Sololá, community members came out to the highway to

prevent a large cylinder headed to the now infamous goldmine in San Marcos and were met with intense police and army repression;²⁶ and second, in San Juan Sacatepequez, in the department of Guatemala, the resistance movement struggling against the construction of a cement factory has also been met with state repression and a new form of repression carried out by private companies: legal persecution in the form of arrest warrants and defamation (UDEFEQUA 2010b).

With the knowledge of the increased risks posed to community members who defend their territory from large-scale development initiatives and through their comprehensive analysis and knowledge of the political dynamics in their own region, communities in the Northern Quiché region, along with the technical support of HMI, have developed sophisticated ways to document their struggle with integrity and credibility. As a result, HMI is able to respond to crises when they arise.

When two unknown men who were eventually identified as mining prospectors arrived in the small village of Vivitz, about a four hour bus ride north of the municipality of Nebaj, community members quickly seized control of the situation by performing a citizen’s arrest of these two outsiders and ensured that every step of the arrest was clearly documented in print and in video (Resistencia de los Pueblo 2010d). A written record (*memoria*) of the events, photos of all the documents that the community members confiscated from the two intruders and a video of the

²⁶This gold mine is a subsidiary of Canada and U.S.-owned Goldcorp Inc. with a widely-documented record of community division connected to the contested presence of the mine in the region (ACOGUATE 2009; Castagnino 2006).

detention are archived on the website *Resistencia de los Pueblos*. Their content provides important insights into the alternative rights-realizing strategies carried out by the community members in order to defend their land from outsiders but also to defend themselves from attempts to delegitimize or criminalize their actions.

There are three main points that the *memoria* documents about the citizen's arrest. First, the document clearly indicates that the two men are unknown to the community and are not from the region. This is done by documenting their identification number (*cédula*), nationality and the position that they hold in the two different companies with which they work. Second, the *memoria* draws attention to the fact that the company that they represent was legally established the very same day under the name "Union of Land Owners of the Mountaintop of Salqkil, Department of Quiche, Guatemala" and that the documents that the two men handed over to authorities in Vivitz did not have "signatures, official legal stamps, paperwork of landownership or any other land registration that identified the properties [in question] or identification numbers (*números de cédula*) of the documents' signatories" (Resistencia de los Pueblos 2010d, 1). Third, the document gives a brief description of the actions of the 2000 community members and local authorities following the detention of the two men. It indicates that

at the end of the day, since there was no justification for [the two men's] presence there, after handing over the paperwork that they brought and after promising that 'they would never ever return,' the authorities and communities that were present allowed them to leave the area. Also, before leaving, they handed over the quantity of Q15,000 to take care of damages and harm caused

in the area that was [then] shared amongst the five communities²⁷ (Resistencia de los Pueblos 2010d, 2).

Interestingly, the document then indicates that a week later, an 'inter-community gathering' took place where the community members from Vivitz shared this incident with neighbouring communities and, together,

re-examined the events of Vivitz on January 16, the paperwork that was handed over by the supposed businessmen and the situation of natural resources in the region, making decisions [related to] the preservation of natural resources and requesting a national and international denouncement of the events that had occurred in their communities (Resistencia de los Pueblos 2010d, 2).

On the video that documents the arrest, the two men are read the community act that was drawn up following the decision to let them leave the premises. It is clearly documented in the act that the two men promised to never return. The act was read out loud in front of the 2000 community members and authorities and then signed by the detainees. Their signatures appear next to the signatures of the communities' auxiliary mayors, many of whom, at the end of their name also indicated that they were *principales*.²⁸ This incident was included in the Vivitz community's *memorial* presented to Congress on May 5th. This depth of information is rarely heard by national and international officials and exemplifies the under-documented conflicts generated by

²⁷ Beyond the community members of Vivitz, neighbouring communities had also arrived.

²⁸ '*Principales*' often refers to the indigenous elders of the community who, prior to the establishment of indigenous mayors, were responsible for making decisions about the development and welfare of the community.

large-scale development projects throughout the region.

The communities of the Northern Quiche region are engaged in a rights-realizing strategy. They point to how land prospecting should be carried out and they scrupulously document events that take place on their land and in their communities because of the lawless frontier they constantly navigate. By carrying out a citizen's arrest, they are attempting to access the immediate legal forms that could effectively protect them. In many regions of the country, including the department of El Quiche, when there is a conflict in a village, municipal police often refuse to enter the community claiming that it is too dangerous for them (Snodgrass Godoy 2006). As a result of this absence of state law enforcement, community members take matters into their own hands with whatever administrative tools they have at their disposal. Then, with the support of HMI, they document the entirety of the events that occur. Like dedicated lawyers they prepare their offense while maintaining a strong defense.

This carefully documented information helps the communities to defend themselves from future criminal charges that could be launched against them for the detention of the two men and asserts the authority of the community to make decisions about who will be allowed to enter the village. Responding to historic patterns of domination and resistance of post-war Guatemala, these communities develop strategies to protect themselves. They anticipate the types of attacks such as delegitimization, legal persecution and intimidation doled out by dominant powers such as company representatives at the local and national levels as well as local government and other political-economic interests.

The Vivitz case provides a unique demonstration of community autonomy and authority because of the way that the events are documented and later used. After describing the incidents that had occurred in the weeks following the detention of the two mining prospectors, the Vivitz *memorial* states the following:

It is until now that our communities are finding out about [what is going on in] our territory and our own lands. Exploration and exploitation mining licenses have been conceded by the Ministry of Energy and Mines without informing or consulting us (Resistencia de los Pueblos 2010a).

Following this statement is the final component that comprises all of the community *memorials* presented to Congress. There is an exhaustive list of the mining licenses in their various stages of approval as determined by the Ministry of Energy and Mines. The communities reiterate that they have never been consulted and never gave their consent to these projects. By doing so, they counter official claims made by the companies in the region that formal referendum processes or information sessions have indeed been carried out and community support acquired. By carefully documenting the citizens' arrest of the mining prospectors, exposing the illegal property documents that they had with them and then pointing out the fact that there are already licenses on their land without their consent, the community members set up a strong legal case demand:

[The] immediate cancelation of mining, hydroelectric and oil prospectors,' exploration and exploitation licenses that have already been approved on our lands and the territories; [and] [t]hat no other exploitation license be approved for natural resources found in

our territory. In other words, that all requests [for licenses] handed into the Ministry of Energy and Mines be annulled²⁹ (Resistencia de los Pueblos 2010a, 6).

With the presentation of the *memoriales*, the communities wanted to clearly state their complete rejection of the projects on their land. By adhering to the letter of the law and documenting every aspect of their engagement with it, they are creatively challenging state silence on political and legal commitments made during the so-called democratic transition governments of 1986 onward and of those enumerated in the peace accords – particularly as they pertain to indigenous rights. They utilize and adapt national and international laws while constructing alternative strategies that the communities have implemented in the absence of a state response to their predicament. Meanwhile, by asserting the word of the *pueblos*, they assert their authority and evoke their historic claim to the land upon which they currently live and upon which their lives depend.

The final component of the communities' rights-realizing strategy against large-scale development projects is the organization and implementation of community-based referendums. Community members are tired of being discredited as 'backward' and 'dysfunctional' and having 'experts' and outsiders define the development goals of their communities. They assert that the community referendums represent the word of the *pueblo* and thus signify a final decision about the construction of large-scale development projects. This is echoed in the press conference prior to the meeting with Congress. Typically, the

space of the *Casa del Pueblo* is used for communities to put forward their proposals and eventually receive a response. The community member who was interviewed, however, wanted to make it clear that the decision about the presence of development projects had already been made and that the *pueblo* had come to inform the government of that decision:

Cunen stands firm in that a referendum has already occurred [there]. No matter what the government says. Soon, referendums will take place in Nebaj and Sacapulas and in other municipalities and now we have everything laid out for the municipalities, for example, the ministry of energy and mines, the ministry of environment, of economy and other authorities [are here] so that we can explain the pueblos petition to them and the position of the pueblo against the threats of the transnational and national Guatemalan companies. We stand firm to defend our territory. In other words, we do not want a company to arrive to exploit mines, water and everything that belongs to the territory of this region (Resistencia de los Pueblos 2010g).

Given the community members' lack of trust in municipal government, the state body responsible for organizing and carrying out the consultation process, they have chosen to take it upon themselves to carry out their rights to free prior and informed consent. They are aware that the government is not fulfilling its obligation to protect these rights because it is more interested in supporting economic investment that requires the same land that indigenous people use to live and survive on.

²⁹ These are two of the six demands that the community members put forward in their *memoriales*.

CONCLUSION: “TO RESIST IS TO MOVE FORWARD”³⁰

The different stages of re-territorialization that have occurred since the Spanish invasion in Guatemala have re-organized and re-located indigenous people and sabotaged their possibilities of bringing forward cohesive community-based proposals as defined by international indigenous rights frameworks. The fragmentation that continues to divide communities and spur conflict at the local and regional level and the failure of the government to step in to resolve these conflicts has caused *campesinos* to develop new rights-realizing strategies.

With the public information provided by HMI, communities learn about government policies and plans for their region. They then analyze them and make their own community-based decisions. These communities present an innovative strategy for confronting the complex socio-political context in which they live. They reject claims made by government and military officials that their community-initiated processes are based on indigenous ‘backwardness’ (Nelson 1999) that fails to understand the economic benefits that neoliberal large-scale development projects can provide for them.³¹ By emphasizing the importance of remembering the violence

and dispossession that has led to their present situation, they help to ensure that this past continues to inform the socio-political and economic analyses of present-day decision-making processes regarding development. By video-taping, documenting and exposing corruption and manipulation taking place at the local and national level and by the creation of the website, these community members are engaged in a (re)construction of their past and present. They assert the law in their own way in order to meet needs that reflect 500 years of resistance and survival and that aim to document the present in a way that breaks the cycle of their historical exclusion from the official versions of the past.

Their work is constitutive of an innovative political project that challenges state sovereignty and authority at the same time as it uses a hybrid approach to justice that takes advantage of political opportunities at the local, regional and national level while drawing on the authority of indigenous leaders. The complex, sophisticated process through which the *memoriales* were constructed and then mobilized enables community members to set the terms and framework of how they present the issues that they confront on a daily basis. By constructing this alternative rights-realizing approach, they establish their legitimacy as indigenous communities based on a localized and historicized analysis of their socio-political and economic context. By drawing attention to the fragmentation caused by constant assaults on their land and their communities, they challenge the confines of the neoliberal multicultural framework and circumvent top-down development initiatives.

As these different communities come together, they share similar stories of dislocation, repression and exclusion and exchange strategies and examples of resistance. Communities learn from each

³⁰ Slogan used by HMI in their 2010 *boletín*

³¹In Lassalle (2010), a documentary about the Canadian-owned Marlin mine in Guatemala, there is a scene where community members from Huehuetenango turn in the results of the public referendums previously held in their communities. The member of Congress who receives the bundles of papers with the signatures and finger prints of thousands of *campesinos* that voted no to mining responds in a condescending tone, “Ok, no mining? Then no jobs.” Indignant, the *campesinos* state that that was not what they meant when they said *no a la minería* but the congressperson, a full foot taller than the tallest *campesino*, simply ignores them.

other and therefore develop new strategies and mechanisms to protect them from being charged with bogus crimes or having their work delegitimized by the private companies that they are fighting against. Furthermore, the fact that these communities continue to organize referendums despite the decision handed down by the constitutional court in 2007 regarding their non-binding nature is indicative of how they view the legitimacy of their claims and rights and the rejection of the decisions of an exclusionary and racist justice system that fails to protect them. The support that the HMI provides to these communities demonstrates the importance of bringing excluded voices to the forefront to critically engage with the hegemonic governance mechanisms that aim to control and pacify them. As communities throughout Guatemala continue to join together to contest the neoliberal multicultural politics of forgetting and as communities' alternative rights-realizing strategies continue to reach local, national and international actors, it will be important to see what the next steps will be in their political project and determine ways to support them.

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