MASTER THESIS:

Rural Governance in a Multicultural State

Santa Catarina Road case in Jalisco, Mexico

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MASTER IN INNOVATIVE GOVERNANCE FOR LARGE URBAN SYSTEMS (IGLUS)

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ABSTRACT

This document describes the concept of governance generated from conflict in between the indigenous *Wixarika* community of Santa Catarina Cuexcomatitlán and the Government of the State of Jalisco.

It describes actions that have been carried out as part of a resolution of a judicial sentence which obliged the state government to restore a zone damaged by the construction of a highway.

This study hopes to emphasize the importance of governance in rural zones, and specifically the importance of applying governance to the struggle for respect for indigenous communities.

It ends with recommendations, stemming from the lived experiences of the author who was a part of this project. These recommendations will serve the stakeholders as well as the academy and government institutions. They will also serve indigenous communities.
ACKNOWLEDGEMENT

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<td>Jalisco Association of Support for Indigenous Groups</td>
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<td>ANP</td>
<td>Área Natural Protegida</td>
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<td></td>
<td>Protected Natural Areas</td>
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<td>CDI</td>
<td>Comisión Nacional para el Desarrollo de los Pueblos Indígenas (antes INI)</td>
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<td></td>
<td>National Commission for the Development of Indigenous Peoples (formerly INI)</td>
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I. INTRODUCTION

The government of Jalisco during the administration of the National Action Party (PAN) from 2007 to 2013, decided at the end of 2007, to build the “Bolaños-Huejuquilla el Alto” highway that crosses territory which belongs to several wixaritari communities. These previously mentioned works were to be completed by the Secretaty of Urban Development (SEDEUR).

According to their worldview, the community members of Santa Catarina Cuexcomatitlán, felt effected by the construction of this highway, principally due to the illegal expropriation of territory granted to the community since 1960, especially in places where the highway crosses locations designated as sacred sites by the community members.

Due to afore mentioned issue, the Wixarika community decided to begin a strike on the site, trying to stop the machinery that had already begun work. Upon not feeling listened by the authorities they submited an lawsuit requesting an injunction to the representatives of the State Government who were involved in the construction of said highway.

Upon begining this judicial procedure, the construction of the highway had to be suspended until the authorities could provide a sentence. In 2011, the Sentence to the responsible authority of Secretaria de Desarrollo Urbano (SEDEUR) consisted of:

“…leave all of the unjustifiable works associated with “Bolaños-Huejuquilla el Alto” highway, specifically kilometers 70+400 to 89+580 that affect the property of the plaintiff. They should clarify that they understand how they should comply with the injunction ruling, until the responsible authority restores things to the state that they were previous to the declared violation.” (Injunction Ruling, 596/2008)¹.

After this was done, judicial appeals followed, until finally in 2012 they confirmed the sentence, the same year that they celebrated the elections for the new governor of the state.

By 2013, Institutional Revolutionary Party (PRI) the same which took the decision of merging into one single secratary all of those which were previously in charge of the execution of Public Works, old Secretary of Urban Development (SEDEUR) gave way to the current Secretary of Infrastructure and Public Works (SIOP) which
inherited the fulfillment of the ruling in favor of the Wixarika community of Santa Catarina Cuexcomatitlán.

In August of 2015, the accords which took two years to settle were celebrated with a Wixarika ceremony to which all government entities were invited. This was where they finally sealed the restitution of damages inaugurating the work under the conditions proposed by the community.

With a small recounting of the acts, it is evident that the previous government was the type of government that took the decisions even above the will of the communities. With the change of governors in addition to the court conviction of the government, they began the process of governance on a small scale but with great importance for society.

Generated by a conflict and with no other option for the State Government of Jalisco, this governance permitted the participation of various intertwined elements, on the one hand the inhabitants of the Wixarika community of Santa Catarina Cuexcomatitlán, on the other hand, government institutions like the Secretary of Infrastructure and Public Works (SIOP), The Secretary of the Environment and Territorial Development (SEMADET), The General Directorate of Agriculture, Non-Government Organizations (NGO) in the case of the Jaliscan Association for Aid to Indigenous Peoples A.C (AJAGI) and lawyers that helped the community and finally the academic community by the University of Guadalajara.

Each of these helped in its own way in order to solve the case. Thus, the primary research question is: **How did governance make a difference between the involved stakeholders in the case of the highway of Santa Catarina?**

With the objective of a search and inquiry on the pertinent information for responding to the research question, two objectives should be proposed:

- Consider governance as something that is originated by conflict specially in the rural environment.

- Establish background about what happened in this particular case with the end intention of giving consideration to previous research in México on rural governance.
METHODOLOGY

The research question was answered and the objectives were achieved with the creation of a bibliographic revision of the subject using referenced sources.

After presenting our conceptual platform or theoretical framework, we proceed to present the case study, where what happened was described with great detail, using observation, participation in meetings and interviews conducted in the company of the anthropologist Gabriela Gil Veloz.

With these sources, it was possible to chronologically reconstruct the case, show the principal actors and the interactions that they had with others, the most important events, such as the conflicts and the agreements that occurred in meetings, round-tables and dialogues.

We must begin with the fact that neutrality does not exist, we all have positions conditioned by the past, by our education, and by our prejudices. My position was that of a master degree in Innovative Governent for Large Urban Systems (IGLUS). This perspective involves a critical point of view towards professional practice. At the same time I was an active part of the government of Jalisco through the Secratary of Infrastructure and Public Works (SIOP).

This could have several pros and cons. On the one hand, I had an understanding of government that I used as a strength for my analysis. On the other hand, I was a part of the process; a witness in the lawsuit and the negotiations. I had access to the meetings, the files and the key participants.

We will analyze the data for this case through the methodological framework of the theory of rural governance. We will empirically see this case develop in practice. Finally, after the analysis the case will come to certain conclusions and recommendations for rural governance, such as the program IGLUS.
JUSTIFICATION

Often, governance is understood from the urban perspective, from the big cities, and how they operate economically, socially and politically (Audouin, 2015). However, fifty percent of the global population inhabits rural environments (Conferencia, 2015), according to the Organization for Cooperation and Development Economics (OCDE), in Mexico eighty percent of the national territory is rural with 37% of the total population living in these zones (OCDE, 2007).

The perspective of rural governance has been less visible and under analyzed, even though there are some authors who have begun to work with it. For example, Moyano (2009) who generates theory from the reality of the Spanish countryside or like Ortega (2012) who writes from the reality of Brazil, demonstrating parallels with other Latin American countries.

Currently there is a paucity of analysis using rural governance theory from the reality of rural Mexico. This case will allow us to see how rural governability operates in detail, its origin in conflict, the way and the benefits of taking it.

As a part of my experience working as the Administrative Director for the Validation of Projects, in the General Council of Rural Infrastructure, in the State Government of Jalisco, I was in charge of planning public works and executing them in the rural area of the state. I provide follow up and supervision. Among my principal functions was the rehabilitation of rural roadways.

One of the projects that I found most interesting for different reasons has been the highway project from Bolaños to Huejuquilla el Alto. It has been a challenge, because as an engineer I was taught how to construct highways, however, in practice I was confronted with the consequences for the people and entire populations whose lives are passed by the highways we build.

This study represents a great opportunity to reflect upon the capacity of the government to govern a multicultural state as well as its strengths and weaknesses from the point of view of governance. Also, based on the acquired experience, it will be a great opportunity to generate recommendations at the structural level.

Also represents an opportunity to take note of this strenuous experience which was full of learning opportunities, so that the road now taken can provide an example of that which did not work and a testimony of the agreements and resolutions made
between the *Wixarika* indigenous community and the diverse institutions involved in demonstrating how governance can operate and the results of this process.

This study will briefly touch upon the description of the conflict, but above all, how it was resolved and what the agreements were like between the governmental mechanism, that is to say, the current SIOP and the *Wixarika* community.
II. BUILDING FRAMEWORK

This chapter pretends to introduce us first in the wixaritari culture, explaining their history and way to see the life. After that, a brief explanation of Jalisco’s context and some facts about the indigenous conflicts in Mexico, contextualizing the importance of this case for the country.

Then, I present the legislation of the national and International laws for indigenous population. Finally, I expose the governance theory since its origins and taken the conflict as a principle of this one, focusing in rural governance, where mostly indigenous people live in Mexico.

THE WIXARITARI

The majority of the bibliography that has been written about the Wixaritari has been written from the discipline of Anthropology, so this case is innovating since nothing has been written from the theory of and governance in regards to the indigenous population.

The Wixarika ethnicity is part of a great diversity of indigenous population in our country. National Institute of Statistics and Geography (INEGI) has currently recorded that there are ten-thousand of them in the sierra Wixarika which is located in the Sierra Madre Occidental. Some localities are more than three-thousand meters above sea level which complicates access to those communities.

The Wixaritari territory is a rhombus inside of the states of Durango, Nayarit, Zacatecas and Jalisco. This is the region that they inhabit. However, inside of the cosmovision of the culture, the territory includes places where their sacred sites are located. This territory consists of roughly 70,000 km².

Three are the Wixaritari communities: San Andrés Cohamiata, San Sebastián Teponahuastlán y Santa Catarina Cuexcomatitlán, with two extensions: Guadalupe Ocotán and Tuxpan de Bolaños. All of these communities take their name from the Wixarika language: Tatei Kie, for San Andrés, Waitia, for San Sebastián, Tuapurie for Santa Catarina, the only name with a feminine origin.
Pilgrimage is one of the most salient aspects of their culture and forms part of a complex religious and sociocultural system. Those populations that aspire to be healthy and prosperous have the obligation to fulfill the trip at least five times in their life.

There are five principal sacred pilgrimage sites which respond to the five principal cardinal directions: Teakata, the center in Santa Catarina, Tuapurie, the north in Cerro Gordo, Durango, Hauxamanaka; the south, in Chapala Lake, Jalisco, Xapawiyemeta; the east, in Cerro del Quemado, San Luis Potosi, Wirikuta; and in the west, Puerto de San Blas, Nayarit, Haramara.

Additinally they have other sacred sites and intermediaries for going to that places. Recently it has been noted that they take offerings outside of this sacred territory, like the Basílica de Guadalupe or Veracruz. The offerings are taken in order to take care for the world, so the world will continue reproducing itself, which is part of the cosmovision tied to religiosity.
The elders are the principal defenders of tradition and religious life. The council of the elderly along with the maraka’ame regulate and guide a virtuous life. Additionally they are the principal authorities, even though in the most recent years they have lost their importance derived from civil power that has been constituted in the community by the influence of governmental institutions.

In Wixarika culture ceremonies are considered an answer from the Gods in health, in harmony, in peace, in good harvests, abundant rainfalls, etc. It also means to fulfill a covenant with the Gods. Said ceremonies articulated a series of elements that have to do with religious aspects, economic life and social security.

The Wixaritari have some of the best preserved traditions and customs of any ethnic group country due to the isolation that they have sought for themselves over the years. They self-identify as a closed community because they don’t enter in contact with outside people who they call mestizos. Additionally, they consider themselves a conflictive people due to the difficulties that have occurred in the region, the majority of which have occurred in defense of their territory. It is most likely that their culture would have disappeared if they had not been the severity and abidance of their mandate (Gómez y Leguer, 2001).

As a consequence of living in a fairly inaccessible region, their productive growth has been halted. Their economy is based primarily in the production and sale of handcrafts full of colors, symbolism, and meaning. Their art work has earned them international fame; however this has not been beneficial because the sale of these crafts has not been through fair-trade.

Figure 2 Photography of the Sierra Madre Occidental 2016. Joanna Arana.
Some parts of Wixarika territory are Protected Natural Areas (ANP) which according to the cosmology of the people should be respected. However western society has created a precarious position for them and economic interests would like to exploit the region in order to guarantee their survival. This has not generated economic prosperity; on the contrary, it has caused a loss of vegetative cover erosion, desiccation of the streams and the disappearance of important species like the white-tailed deer.

For many years the government has provided programs and aid that was culturally inappropriate, which has introduced foreign aspects to the communal productive life of the Wixaritari community. The work of Beatriz Rojas (1993)\(^6\) which reviews historical files on the Wixaritari, references the relationship between the government and this ethnic group. However, this was never a relationship of governance but a relationship between welfare provider and welfare recipients.

The majorities of these programs are paternalistic in nature and have not taken into account the voice of the Wixaritari communities. In addition they only solve problems in the short-term without having to consider the basis of the economic, social and ecological future of the communities.

**NATIONAL CASES**

The case of the Bolaños-Huejuquilla el Alto Highway is not unique. Due to the large number of indigenous people in Mexico there are a large number of similar cases.

One of these cases is that of the Tuxtla Gutiérrez a Palenque highway in the state of Chiapas in southern Mexico. In January of 2014 the Tzotzil indigenous community named “Los Llanos” requested an injunction against all licences and authorizations provided by federal, state and municipal authorities for the announced construction of the San Cristóbal de Las Casas-Palenque highway, without open and informed consultation with the community.

The motive for this injunction is that the community signaled that this “mega project” highway put at risk their food sovereignty, their territorial rights, autonomy, their right to non-discrimination and the protection of the environment and natural resources. In this case the divestment of a region of twenty-one thousand acres, called “las cascadas de Agua Azul”. The place that the highway would pass is also known as Bolom Ajaw (Mr. Jaguar in Maya).
Before this injunction, on the 26th of November of 2013, the secretary of the government of Chiapas, Eduardo Ramírez Aguilar, told the press that there would not be a delay in the construction of the San Cristóbal de Las Casas-Palenque highway, and warned that the highway would be completed in spite of the opposition of indigenous communities, among them the community of Los Llanos. With the construction of the international airport in Palenque, this highway was created for tourists, with the intention of profiting from the natural beauty of the area.

There are also other cases of indigenous resistance and government dealing with works other than highways. Some of these are hydroelectric dams, mines, turbines, etc. An example of this is the struggle of the Yaquis in Sonora, for water, they requested that the route of a river would not be changed; or the example of the oil pipeline that passes for Amilcingo; in Xochicuahutla; in San Juan Ostula. This resistance is a defence of their territory.

According to David Barkin Rappaport (2012)\(^1\) historically indigenous communities have lived from onslaught to onslaught. Likewise, Mercedes Gayosso\(^2\) y Navarrete Gómez (2012),\(^7\) in an article of La Jornada, arguing that they diminishes the opinions of the community; he has made public consultations and finally as we all know, that these decisions were made before consulting the communities.

As shown in figure 3, indigenous conflicts exist in the majority of the national territory, which is why finding alternative peaceful solutions to these conflicts is so important.

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\(^1\) Researcher of the Universidad Autónoma Metropolitana (UAM).
\(^2\) Directora Emérita del Seminario de Derecho Romano de la facultad de derecho de la Universidad Veracruzana (UV).
LEGISLATIVE FRAMEWORK

The national constitution is the law with the highest authority in legal matters in Mexico. In it the rights and responsibilities of citizens are outlined, the structure and organization of the state and the norms of the country are formalized.

Article two recognizes that Mexico is a multicultural nation originally sustained by its indigenous cultures defined as those who descend from populations which historically inhabited the current national territory.

This same article recognizes and guarantees the rights of indigenous communities and villages, promoting equal opportunities and eliminating all forms of discrimination. It also establishes the institutions necessary to guarantee these rights and that all integral development of indigenous communities and villages will always be designed and operated in partnership with them.
The principal facets that indicate the objective of this study are contemplated in Title B.:

“VI. Establish conditions where indigenous communities can acquire, operate, and manage methods of communication, in the terms that are determined by the law of materials.” (Political Constitution of the United States of Mexico, 1917).

“IX. Consult indigenous peoples in the elaboration of the National Development Plan and the development of the states and municipalities. Incorporate the recommendations and proposals generated from this process.” (Political Constitution of the United States of Mexico, 1917).

In the National development Plan 2013-2018 the federal government established a strategy to achieve an inclusive Mexico which should safeguard the wellbeing of the indigenous peoples avoiding paternalistic policies and wellfare programs that do little for the integral development of the indigenous communities.

It also establishes strategy 2.2.3: **Promote the wellbeing of indigenous peoples and communities, strengthening the process of their social development and economic development, respecting cultural manifestations and the free exercise of their rights.**

“Lines of Action”

- Develop mechanisms for public action directed to the culturally relevant service of the indigenous population.
- Inspire the national judicial framework in area of indigenous rights, such as the recognition and protection of their patrimony, cultural wealth, with the objective of securing the exercise of the rights of the community and the indigenous peoples.
- Promote the participation of the indigenous communities in the planning and execution of their own community development, assuring respect for their rights and ways of life.
- Promote economic development of the indigenous communities through the implementation of interventions such as training, development of economic projects and the commercialization of products generated by this process, which is in accordance with the culture and its values.
- Assure the free exercise of rights of indigenous communities, in food security, health, education and basic infrastructure.
• Promote policies for sustainable resource extraction in indigenous regions for environmental conservation and biodiversity taking into account indigenous knowledge.
• Promote efforts that guarantee the human rights and secure conditions of indigenous groups that partake in seasonal migrations within the national territory” (National Development Plan, 2013-2018).\textsuperscript{10}

For the state of Jalisco one of the objectives in the State Development Plan 2013-2033,\textsuperscript{11} promotes an inclusive society that guarantees respect for social diversity and the rights of people in vulnerable situations, promoting the development of indigenous peoples respecting their cultural identity.

Likewise Mexico is part of several organizations at the global level and it is a subject obligated to International Public Law which is the order that regulates the behavior of states and other international subjects with the end goal of international cooperation.

This is why Mexico should follow the decisions that emanate from these organizations for example the The United Nations Declaration on the Rights of Indigenous Peoples (2007)\textsuperscript{12}. This document promotes a common ideal that should be followed in a spirit of solidarity and mutual respect, by means of its forty-six articles.

Through the permanent forum for indigenous matters which was celebrated in 2013\textsuperscript{13} we find a reference to governance of indigenous peoples, through article ninety-seven which says:

“The permanent forum recommends to the member states that the agenda for the development after 2015 recognizes the rights of indigenous peoples to self determination, autonomy and self-governance, along with their right to determine their own priorities for development. Participation in the process of taking normative decisions and governance at the local, national, regional and international levels, for the consultation and participation of the indigenous peoples, based on the fundamental right to free, previous, and informed consent, and participation in the process of development. In this respect, the work of the United Nations these countries are fundamental.”

Another international agreement that aids indigenous groups is Convention 169 of the OIT on indigenous tribes and peoples in independent states ratified in 1989\textsuperscript{14}. This convention took place in Geneva and was signed by Mexico.
It claims to recognize the distinct types of indigenous governments and organizations. It declares in its second article that Governments should assume the responsibility of development, with the participation of the interested people, through coordinated and systematic action looking to protect the rights of these peoples and guarantee respect for their integrity.

There for there is a large quantity of national and international legislation established in respect to the autonomy of indigenous nations. None the less beyond autonomy, it is important to note the success that the indigenous government and the government of the state have had in arriving to their agreements. They have been able to work together respecting the uses and customs of the community of Santa Catarina Cuexcomatitlán and in turn how the community came to a consensous with the state government without losing their autonomy.

**CONFLICT AS MOTOR OF GOVERNANCE**

“Without conflict cooperation cannot exist.”

There are many definitions that currently exist for the term governance, however, we could say that we have had two great steps in the first of which the term was empty of defined content for the acts and effects of govern and self-govern. In the second step, which corresponds to worldwide political changes where they have taken this term and have filled its meaning for certain ends, in agreement with the Royal Academy of the Spanish Language (RAE), governance means the art or way of governing which is proposed as a goal in economic, social and institutional development. It promotes a healthy equilibrium between the state, civil society and the economic market.

On the other hand, specialized literature in public administration and political science distinguishes the concept of governance from governability, where governance is an independent variable from governability. Meanwhile the latter is dependen ton the former (Jorquera, 2011).

According to Jorquera (2011) the idea of governance begins to be utilized by the World Bank (BM), regarding the development crisis in sub-saharan Africa at the end of the 1980s.
Luis Fernando Aguilar Villanueva (2006),\textsuperscript{17} says that governance is part of the act that in current worldwide conditions it is only possible to govern in this way. It also references the fact that governments are necessary and indispensable but at the same time insufficient for direct activity over which it is responsible. It is evident that more and more the public sector and the private sector are like that, as they are in other countries.

Likewise, it establishes that the state is not who should determine the course of the nation. This requires a great consensus in between social organizations in the private sector and social organizations.

This same author, agrees that governance is the result of actions undertaken by the government in order to reconstruct the directive capacity like the surge of numerous citizens groups with great democratic impetus that are working towards having a voice for participating in matters of the public sector.

\textbf{Figure 4} \textit{Forms of relationship in terms of governance, as described by Aguilar Villanueva (2006). Work by the Author.}
Based in the definitions given by Aguilar Villanueva (2007) the core idea establishes that a conflict is a state of crisis where opposition exists or there is disagreement between people. We could hypothesize that, in many cases governance increases when there is no other way than to look for a solution that satisfies all of the involved stakeholders in a conflict.

**RURAL GOVERNANCE**

The concept of “rural” has essentially four common characteristics:

- Low population density, historically determined by the capacity to exploit nearby resources.

- The importance of agrarian activity, even though this is losing its importance, it continues to be the economic base of most rural areas.

- A strong relationship between the inhabitants and nature, this relationship is so important that often it becomes a part of the identity, economic activity, celebrations, available materials and forms of construction.

- Strong social relationships that are established between inhabitants. These relationships are defined by belonging to a small, stable collective group.

According to the OCDE, in Mexico there are two distinct definitions for “rural”; one is used by the National Institute of Statistics and Geography (INEGI.) This definitions is based on the size of the population, where all of the populations with less than 15,000 inhabitants are considered rural. The other definition of rural was developed and is used by the OCDE and it is based on populational density and classifies regions as predominantly rural, intermediate or predominantly urban.
Ortega (2012)\textsuperscript{19} has established that the división between rural and urban comes from the industrial revolution in which urban became associated with the new and with progress while the rural was associated with the old and with backwardness. Today rural and urban have begun to lose these associations.

The OCDE has laid out the urban-rural debate, and it considers rural areas as important for national development. It does not believe that there is a conflict between rural and urban, but rather an inherent and continual relationship. This is based on the fact that both rural and urban coexist in the same state. Furthermore they don’t just coexist, but rather they exist in a situation of mutual interdependency.

It is possible that the assumed relationship between rural populations, poverty and marginalization exists because the indicators that measure these standards are elaborated at the global level by people with different needs than the rural population. We do not mean to say that there is not poverty and marginalization in rural populations, but rather that not the entire rural environment is poor. Here we confront different cultural values when we are working with concepts like development, which the urban population associates with poverty.
In the rural environment poverty has another meaning, for example, for one group of people poverty is not having property where they can grow their own food and they don’t have to pay rent, for the other group it might mean not having a bathroom or running water.

In this respect, including some authors such as Kageyama (2004) have developed a rural development index (IDR) it was based on the simple mean of the following indexes: The index of the population (IPOP), the social wellbeing index (IBES), the index of economic development (IDE) and the index of the environment (IMA). This was derived from the idea that the indexes of human development (IDH) that have been used to measure poverty are not completely functional with respect to the points of view and values of the rural populations that they study.

Another example of the implicit relationship between the concept of rural and poverty can be found in this quote by Franca (2007) “Municipalities with low indexes of human development and small populations, territorially excluded from the success of accumulated material wealth. These are municipalities with a rural profile, with a great lack of infrastructure, whose economic activity and subsistence reside, in the majority of cases, in family agriculture”.

Evidently poverty is not synonymous with the incapacity for social organization, but when we analyze the socio-economic conditions in which we find our territories it amplifies scepticism in the success of rural development projects. Repairs to the socio-economic productive base, as well as the results of public politics such as those of autonomous and private constitutions, can contribute to an improved dynamism in rural areas (Ortega, 2012).

Derived from the complication of defining the rural environment, it is also difficult to define rural governance. Upon analyzing the dynamics of development in rural areas, Eduardo Moyano Estrada (2009), who described the model of rural governance rural from the Spanish countryside, advises that the rural environment is characterized by a great number of collective associations whose activities correspond to the vocation of local activities, in conjunction with the institutions that perform a decisive role in the politics of rural development.

For Moyano (2009), the articulation between actors and institutions is what defines “governance.” A notion that informs us that without a proper governorship of existing resources, without a good canalization of the public and private initiatives and without an adequate integration of individual impulses in favor of a common interest that transcends the environment of particular interests, any development
program is destined to failure. However, with a good system of governance, it would be easier if such projects were integrated with a common strategy, contributing to a more sustainable territorial development in social and economic terms in addition to environmental terms.

The author also emphasizes that for development in the rural environment there is a relationship between institutions and social capital. What is important is that social capital in any territory is derived from collective action for development and governance. It is not sufficient that a rural environment has a dense number of associations but rather that which is really important is that this network is adequately interconnected and generates trust at its various points of interconnectivity.

Speaking on public institutions, Moyano (2009) show us that these are fundamental elements of the system of governance in the dynamics of development in rural areas. In as much as in practice said dynamics are the result of a combination of bottom-up and top-down strategies where these institutions are in charge of ensuring infrastructure, channeling public resources and promoting a search for agreement between stakeholders.

However, to be authentic actors in development these institutions should be efficient in the exercise of its administrative functions and should promote an adequate coordination between them; only in this way they will generate the social capital and trust for the dynamics of development.

With this theoretical framework that Moyano proposes, we could classify all of the surrounding institutions involved in the case of the highway of Santa Catarina. Furthermore we could clearly understand how they articulate and generate from the interests, resources, and actions involved in the highway.

There is just a few literature about rural governance and indigenous communities nevertheless, after analyzing the national and international legislation is evident, that their rights and the laws are looking forward to recognize the search of equality of opportunities for indigenous people. Sumarizing the quantity of similar conflicts, we can recognize the importance of this deep analysis of this particular case of governance.
III. EMPIRICAL CASE

Through this chapter we discuss the facts that gave rise to governance process generated by the legal conflict between the government and the indigenous community of *Santa Catarina Cuexcomatitlán*. So it begins with a brief description of state of Jalisco in the national context and then addresses a way summary chronology of events as the community.

The following sub titles "Disagreement of views" and "Common understandings" show the account of the facts through the data and experiences of different players obtained from the interviews. Finally in the sub title "First objective: *Paso del Oso*" narrated the experiences generated by the start of construction.

**GOVERNMENT OF JALISCO**

Jalisco is one of the 32 states in Mexico. It is located in the western half of the country. Its principal cultural features which are internationally recognized are *tequilla* and *mariachis*. It has the fourth largest population of any state in the country.

![Map of the 12 regions of the state of Jalisco. Created by author in 2013.](image)
It is composed of 12 regions: the North, the Northern Coast, the Occidental Mountain Range, the Valleys, the Center, The Southern Highlands, The Northern Highlands, the swampland, the southern coast, the Amula Mountain Range, the South and the Southeast (INEGI, 2010).22

As in the rest of the country Jalisco has a large trajectory of government by the Institutional Revolutionary Party (PRI), but in the year of 1995 it experienced the transition of to the National Action Party (PAN) through Alberto Cárdenas Jiménez. This party remained in power for four administrations until the year of 2013. That year the PRI regained power through Jorge Aristóteles Sandoval Díaz, who will finish his term in 2019.

It is important to point out that the current administration has explicitly referenced the concept of governance with the ends of using it as a development tool in its State Development Plan 2013-2033 which states:

“In these last decades the concept of governance has gradually been defined and assimilated. The fundamental principals of this concept are cooperation, complementariness and corresponsiveness of public and private actors as well as civil society as a necessary condition for pushing development. From there a fundamental premise captured in this plan consists in the instrumentation of that concept known as governance. Each actor of governance can not only contribute to the definition of the public problem but also influence the design and execution of the plans proposed to reach the development objectives, setting goals that have to be measurable and monitored. Evaluating and adjusting their contribution to the development of the state. During the integration process of the Plan they
implemented diverse methods of participative consultation with the actors involved in governance” (PED 2013-2033: 17).

In state planning it is also proposed that governance colaborate with other actors in addition to the government and expresses this in the following way:

“The perspective of governance makes sense accepts that the problems are socially constructed and additionally they are phenomenons understood by different means that do not homogenously influence the citizens. In this sense, the state is nothing more than a strategic agent in colaboration with other actors, including social society and diverse sectors. Working in governance also implies a colaborative and complimentary process between the three branches of the state (executive, legislative and judicial), each one as a fundamental agent for the development of Jalisco” (PED 2013-2033:28).

However, even though the State Development Plan claims to have consulted the population and the actors involved in governance, said plan is not part of the public dominion. That is to say that in Mexico, we have an excellent theoretical framework, but this is not the end of the process. What I mean by this is, that even though the governance is very detailed in the plan, the public servants do not know the plan or don’t understand governance at a theoretical level. At personal level, I began my career as a public servant in June of 2013 and I can say that the term governance was new for me until 2014, when I began the masters program in Innovative Government for Large Urban Systems (IGLUS).

In the year (2007) when they began constructing the highway the Secretary of Urban Development (SEDEUR) was in charge of executing the project under the supervision of the Management of Highway Infrastructure. With the change of administration, all of the executive officials that were part of different organizations were integrated into one, so since 2013 SEDEUR changed to the Secretary of Infrastructure and Public Works (SIOP). With the change of administration, there was also a change of personnel in all areas. In some ways the conflict over the construction of the Bolaños– Huejuquilla el Alto, Highway was an inherited problem, left by SEDEUR to the current organization SIOP.

It is very common to have territorial conflicts on the purchase of land for the construction of highways, since the owners of the land normally don’t want to sell or put prices that are too high. Another problem that is common in my area is that government projects are not socialized with the population, the people are unfamiliar with the general outcomes of the project and many times the only people
who are aware of this information are the people who are involved in the execution of the project or who understand the environmental impact. This way, the citizens are not involved and sometimes not even interested.

None the less, as a civil engineer, I have never wondered whether I should or should not make a highway. In the paradigm of my training this is not a question one asks, the highway is a benefit to all of the populations who have access to it, reduces distances and time that goods, merchandise, people or even the sick or injured spend in transit. Who could possibly see this as a bad decision?

During the administration of 2006-2013 they began the construction of one highway in order to attempt the assignment of developing the northern portion of the state, by begining the project of the Amatitán-Bolaños-Huejuquilla el Alto Highway giving them fast communication with the capital of the state, Guadalajara.

For various administraitons, the north of Jalisco has been a region of importance in the politcal agenda in terms of development, principally in health, education and infrastructure. It is possible to demonstrate that this is a region of refuge, as defined by Aguirre Beltrán (1985), since it si a zone of the Occidental Mountain Range, where people fled the colonizers, and the indigenous population established itself.

Figure 8 A photograph of the Bolaños-Huejuquilla el Alto Highway taken by Joanna Edith Arana Hernandez 2015.
The lawyer of SIOP Julio César Garcia, auxiliary of the office of litigation, described it this way:

“The North of Jalisco is one section of the state that in a certain way has been forgotten. Yes there are highways that pass through the coast, there are highways that pass through the south, there are highways that pass through all of the state, but in the north, at Wixarika communities, there hasn’t been any communication. In order to get there, you have to go to Zacatecas, because there is not a highway reaching this region from inside of the state” (Garcia, September 2015).

**COMMUNITY WIXARITARI**

The community of Santa Catarina was advised by the Jaliscan Association for Aiding Indigenous Groups A.C (AJAGI) and previously by two lawyers. They succeeded in achieving an injunction against the construction of the Amatitán-Huejuquilla el Alto highway specifically 19 kilometers of the highway, in between kilometer markers 70+400 and 89+580.

Before beginning the construction of the highway, SEDEUR consulted the community wixaritari members who stated that they were not in agreement with the construction of the highway. SEDEUR, in order to speed up the paperwork, falsified the announcement, that is to say, the document where the community approved and consented to the construction of the highway.

With the suspension of the construction, the community was judged as backward. Mestizos and sometimes even members of other indigenous communities were against the stance of the community of Santa Catarina Cuexcomatitlán.

Meanwhile, during all of these years, they remained firm, arguing that it wasn’t that they don’t want progress, but that progress should respect the customs and habits of the region. They only requested that things be done well and respect nature. They hoped that the elaboration of the project would have taken into account their desires, values and cultural vision of the world.

The University of Guadalajara, in web page, chronologically documents a summary of the events.  

2007: The community of Tuapurie (Santa Catarina Cuexcomatitlán) rejects the construction of the highway.
2008: One-thousand community members create a stand in the site of the construction to halt the construction.

2009: The Wixarika community places an injunction to protect the community and request a compensation for any damages.

2013: The judge orders the government to pay a compensation for the damage of the illegal public works, the same that fulfilled the paperwork for a revised appeal.

2014: The judge announces that the original ruling remains in place.

A CLASH OF WORLDVIEWS

According to what was said by Julio Cesar Garcia, who worked in SIOP in previous administrations, there have been many attempts to construct the highway. With the arrival of a new administration it became a pending topic, it became a problem, and the administration would pass by, and a new administration would arrive and say: “This is the pending topic, it is important for the state and we are going to do it”, but the reality is that none of them ever did anything concrete towards completing the project. (Garcia, September, 2015).

This is the way that they proceeded with the Amatitán-Huejuquilla highway, it was not an exception to this process. Without asking for permission, advising or consulting the population, they began the project at the end of 2006.

The same lawyer working in SIOP, Julio César Garcia explained it like this: “the way that (the government) worked was: execute the project and later see who is affected by it. Many public works projects were carried out like that. We are going to make the highway and later we will see to whom the land belonged to, if we pay them there won’t be a problem. Because if you do what is judicialy correct, first I have to ask you if you will sell me your house, if you will sell me your land, because I want the highway to pass over your lad, I will pay you and once I’ve paid you it will be mine. Now I can make the highway. But to construct the highway it was not one lot that was affected, it was many properties, so going about things the way they did, you could fix some situations like that but others you could not, and this all takes a lot of time. (Garcia, September of 2015).
He continued arguing “When a project marks the invasion of ejido property or private property it should compensate the people who are affected. Because of the time lost to beauracracy, in the majority of cases the government attempts to avoid this step. What was better? Based on its criteria the behavior of the previous administration was not good or bad, but was based on principal of law that claims that what is best is that which is best for the collective than for the individual. According to this reasoning, the highways should be constructed anyway there will always be some person who will be unhappy” (Garcia, September 2015).

“The administrative process indicates that in order to execute a public work first you should initiate a request for bids, this begins to generate costs for the state. A lack of previous agreements has caused a continuous loss of resources, just like various conflicts for SIOP, some of which were provoked by a lack of criteria from the authorities and others because people are taking advantage of the government for intervening and indiscriminantly raising the cost of the land. This places the governing adminstrations in a problem, because the work cannot advance, a work which is frozen is very costly, Why? Because now you have compromised contracts, designers, machinery, etc. and for an injunction will suspend the project. You pay twenty million to not carry out the project or you can pay five million to carry it out.” (Garcia, September 2015).

“The Amatitán-Huejuquilla el Alto highway project was magnificent if Amatitán was less than an hour away from Guadalajara and in Amatitán is the connection to Huejuquilla, without having to leave the state, there could be commerce in the northern region with the capital of the state.

“The project consists of aproximately three hundred and forty kilometers. The resources necesary to construct a project of this size has a very high cost. It is unlikely that it will be approved during an administration of six years. So the way of constructing these projects in stages, in agreement with how the approve of the resources, however, they didn’t follow a construction order, when the conflict that happened inside of the 19 kilometers that are represented in thelawsuite they found four companies working at the site, who were blowing up hillsides and execuing works at an impressive speed.” (Garcia, September 2015).
Figure 9 Image of Google maps, the current route for arriving at Bolaños a Huejuquilla el Alto, in order to travel 169 km you need to drive for three hours. The highway project looked to reduce the time spent in passage and modify the route. Google 2015.²⁶

The community did not agree with the project since its inception, but that which destroyed the plan and was the origin of the lawsuit was the destruction of a sacred site known as Paso del Oso.

The importance of this sacred site, is rooted in that an exit and the place where pilgrims from three Wixarika communities leave their first offering in the most important pilgrimage from Teakata to Wirikuta. There aren't any previous photographs of the area, but it is characterized by some rocks about 50 cm tall that are called hewí (bear).

This site does not belong to the community of Santa Catarina. Instead it is located in a Mestizo territory called Tenzompa. Because of the cultural importance of the site they have an agreement that allows them to pass through.

With the execution of these public works, Paso del Oso (Passage of the Bear) would no longer be a passage.
And this is how in 2008, Nora Lorenzana explained how the basic proposal of the lawsuit was a lack of expropriation, the occupation of the territory without measuring the expropriation of all the situations of agrarian property. It also included some arguments of consultation taken from Convention 169 with the International Organization of Labour (OIT) (Lorenzana, September 2015).²⁷

The breaking point was how the state government should procede when first they execute the public work and then later revise who it affects when this is what had caused the lawsuit.

Refering to the lawsuit filed by the community, Juan Carlos Hernandez says that this case is about environmental issues in addition to judicial and legal issues. Not only with the law of the land but also with international treaties, sanctioned by Mexico, sanctioned by the senate. It also deals with cultural issues and demands of social justice. He refers to the Convention 169 of the OIT, wich establishes the relationships between signatory nations with the indigenous people of the country.

In respect to the judicial importance of Paso del Oso, he adds that it is rooted in the application of an exception to the begining of the territoriality in the material of the injunction. This meant that in the sacred site of Paso del Oso, the judge considered that even though this site was not located within the community of Santa Catarina Cuexcomatitlán, it still had a right to protection. He ruled in favor of the plaintiff.
For Julio César, who was the lawyer of SEDEUR, the problem with the community was rooted in the fact that there are sacred sites. However this is a very subjective argument now that it was advised that the defense tried to use the position that these sacred sites might have be important to the community but they are not important to the government. This argument proved to be unsatisfactory. The ruling derived from this took note that there were established routes that were protected that they failed to recognize and due to this failure of recognition, or a lack of interest, they failed to make the proper precautions for all of the details in the highway project. (Garcia, September 2015).

In agreement with what Julio César said, the state government decided to leave the case in obscurity, at least the construction. Even though they tried to evade the legal responsibility of public servants by means of the argument that they had not acted with deceit in this case, something which had been refuted several times by the injunction.

Inside of the legal process between the lawsuit and its resolution Nora Lorenzana spoke about the participation of the Federal Attorney General for protecting the environment (PROFEPA). An organization charged with the detection and control of environmental deterioration in Mexico. On that moment, PROFEPA began administrative procedures against SEDEUR for all of the environmental inconsistencies that were detected. The community was unaware of this until 2010 and not because said organization had informed the community but because of the legal processes which the community had initiated against SEDEUR. Finally, the role of PROFEPA was limited to establishing that the work was not part of an Environmental Impact Assessment (MIA). This was done to determine if the environmental damages were broad enough to permit SEDEUR the right to continue their work (Lorenzana, September 2015).

The community of Santa Catarina Cuexcomatitlán requested PROFEPA for the environmental authority to help them with the preparation of an environmental ruling, the same of which was canceled upon discovering that this organization hoped to be both judge and legal party.

The process of the lawsuit was long, the 24 of June of 2011 they pronounced a sentence against the government where it was established that they would understand how to duly comply with the present ruling of the injunction until the responsible authority left things in the state that they were before the violation.
Previous to the sentence, the government of Jalisco impugned in order to get two issues from my point of view. First, as an intention to reverse the sentence, second, to gain more time. In regards to the first, the sentence remained firm until February of 2012, at which time they began the negotiations to determine if there had been environmental infractions, with the absence of a true environmental authority, the effected party requested the visual evaluation from the judge.

2012 was a year of federal and state elections. During the campaign it is very common for candidates to visit the region. What did they hear? One of the primary subjects was the highway and so the politicians based campaign promises on this issue. The message that they took to the Northern Region and to the indigenous communities was that they would attempt to bring all of the necessary help to raise the indicators of poverty, promote development in order to improve the backwardness of education and the local infrastructure.

In 2013 there was a change of administrations resulting in an associated change of authorities. This was the year that the judge ruled in favor of the plaintiffs. In the words of Nora, this had two aspects, on the one hand the rescue of the sacred site *Paso del oso* and the affectation of the 19 kilometers. On the other hand a substitution from SEDEUR for the damages that cannot be repaired, such as the overexploitation of lumber and erosion caused by moving large quantities of soil.

After the ruling the judged, the state government of Jalisco, did not have the resources necessary to respond to the sentence which established a payment of 210 Million pesos (1.4 million dollars.) As was stated by Julio César, no one is obligated to the impossible, however, the lawyers that sued the government, know that if someone doesn’t have money they won’t pay you.

Upon analyzing the court documents, Juan Carlos (Director of conventions and fulfillment) emphasizes the care that the lawyers received from the community perform not only the territory affectation, but they introduce the cultural heritage affectations, specially the damage to the sacred place *Paso del Oso*. At the same time, he establishes an environmental damaged that is out of the sentence but now it is recognized by government an it is at sping know as *Cerro de la Puerta*.

When the sentence arrived, Juan Carlos Hernandez explained that they would file an appeal, a document that was not favorable to the community. The filing of this appeal hoped to counteract the verdict. That is to say to ask the judge how the government can fulfill the sentence which established that the illegal public works had to be taken apart “If you tell me that they have to return things to the state
before the intervention, for a lawyer –not for an ingeniere- it is complicated to imagine how you will take the rocks and place them back into the hillside.” (Hernandez, September 2015).

At the end of 2013 the following resolution arrived, the same which determined a detailed and graphic way that the actions that require that everything be returned to the state that which kept them before the execution of the highway project.

Our legal obligation is to return everything to how it was, however, its when the documents have been untangled as the government of the state we sit with the community and we tell them: “It is more expensive, to return these things to the state than it is to execute the project, more adequately” (Gacrcía, September 2015).

**COMMON AGREEMENTS**

“We are not the same; we want to fulfill our obligation”

Julieta Parra
General Legal Manager at SIOP

With the purpose of establishing the terms for fulfilling the sentence, on the 30th of September of 2014, Mario Vladimir Avilés Márquez, sent the Secretary of Infrastructure and Public Work document that contains the detailed list of actions and meetings between all the stakeholders including Santa Catarina Cuexcomatitlán community.

- 9th of July 2014: Invitation to attend a meeting for the 16th of July of the same year with the objective of determining the location of the sacred site *Paso del Oso*, to see how to comply with various aspects of the ruling of the injunction.

Said invitation was received by Minjares Valde Bautista, president of the commission of common goods of *Santa Catarina Cuexcomatitlán*, was declined because of the scheduling. In the same invitation the *Wixarika* authorities ask government be part into the assembly that will have place in *Nueva Colonia* on the 19th of July of the same year.

-19th of July of 2014: They introduce the assembly of the representatives of the Secretary of the Environment and Territorial Development (SEMADET), The General Secretary of the Government (SGG) through the General Direction of
Agrarian Affairs, Secretary of Infrastructure and Public Works (SIOP), National Commission for the Development of Indigenous Peoples (CDI), The State Indigenous Commission (CEI), all part of the State Government of Jalisco, as well as representatives of the Commission of Common Goods and Traditional Government.

In this meeting which we could consider the first reconciliation between the government and the community with the end goal of complying with the sentence there was a tour of the following points: Paso del Oso, Ciénega de los Caballos (the end of the community of Santa Catarina y Tenzompa) and Cerro de la Puerta (the limit between Santa Catarina y San Sebastián communities).

In this meeting they came to five agreements:

First: The community requested to open a communication and coordination link with the state government by means of the agrarian and traditional with their respective advisors.

Second: the community requests temporarily halt the public works that they were building in the stretch of the Amatitán-Bolaños-Huejuquilla Highway. Specifically kilometers 70+000 to 89+580, they would also like to have a detailed compliance plan with a chronological sequence of execution.

Third: Define and plan out the work activities that should be fulfilled in the section by section of the steps that need to be carried out. The community will choose the day and the place with a minimum period of 15 working days so that the state authorities will have the information.

Fourth: The state government will inform the community of the advances being made in the work at the respective community assemblies.

Fifth: All of the program and projects that the state government operates on target of compliance should be consulted under the principals of previous, free, and informed consent and should be approved by the community.

This reunion will be the watermark for carrying out the efforts between the State Government and the Community of Santa Catarina Cuexcomatitlán. It will be the foundation on which they will continue to have other meetings and they will comply with the accords.
With the date of the 31\textsuperscript{st} of July of 2014 they will on behalf of the agrarian authorities of the community invite representatives of the state government to participate in the workshop of agreements and targets for compliance with the final judgement to celebrate the 18\textsuperscript{th} of August of 2014 in the area of Ciéneega de los Caballos with the end goal of jointly analyzing with the responsible authority the agreements made with the community. Previous to the workshop on the 5\textsuperscript{th} of August 2014 the community directed trade to the director of Agrarian Affairs. By these dates and with the end goal of honoring each of the requirements they created institutional work tables and with the community as shown in the following:

![Work Table Diagram]

Figure11 Graphic representation of the work tables for the fullfillment of the scentence. Work of the authors 2015.

Derived from all of these meetings the document continued to conform to the following, relative to the restoration of highway between kilometers 70+000 to 89+580.

1. The community is determined to conserve all of the communal territory, for which they will accept the establishment of a right of way.

AGREEMENT: They propose that the assembly authorizes the state government a modernization of the preexisting breech with the adaptations to the original project in fullfillment of the injunction. Guranteeing the free transit of whatever person, vehicle, public security force or merchandise. The state government promises to provide routine maintenance to the road, this will be announced to the community.

2. For the construction of the road they will respect the current outline. We refer to the last project conforming that which already had an elaborated outline, now that it has been considerted that the project relies on all of the technical specifications that a road requires, that which stays outside of our consideration the original road that already existed.

AGREEMENT: Both parties express their conformity.
3. The kind of road that they propose to construct has four lanes of pavement with a foundation of hydraulic concrete with a width of eighty centimeters for each lane and in between the space of each lane refilled with banks of material, leaving the road with a width of seven meters. They would also like guard-rails on each side, as protection for very sharp curves.

AGREEMENT: Construct a road with specific signals only modifying the specifications of filling in between each lane by means of rock and mortar.

4. The construction of curbs with a foundation of rocks piled up one by one covered in clay or loose earth

AGREEMENT: The SIOP has the option of constructing curbs with rocks buried in mortar or hydraulic concrete.

5. The same way the road should rely on sewers located in the necessary sections of the highway.

AGREEMENT: They will construct the sewers.

6. Also the stretch of highway will rely on bridges and sloped steps. These bridges will be constructed with the end goal of leaving free space for the people who constantly pass by these roads, just like the royal roads and sacred places that converge at this stretch of highway. One of these being a sacred site called Hutsetsie o Paso del Oso.

AGREEMENT: They will construct 10 sites, two cattle guarders separated by four meters and in the Paso del Oso a slope of four meters in width and three meters high.

7. The highway will have all basic indicators as preventive, informative or restrictive.

AGREEMENT: They will place the necessary indicators for the right operation of the highway.
8. The wire fence will be located at a distance of five meters on each side of the margin and the posts will be of reinforced concrete.

AGREEMENT: They will locate the fence in accordance with where it was established.

9. In case it will be necessary to extract from the banks material out of the stretch of highway, the SIOP will have to cash compensate the community.

AGREEMENT: They will pay the rates for the exploitation of banks of material conforming to the prevailing prices in the moment the works are carried out.

10. They will locate cattleguards at the kilometer markers at the limit of Tenzompa-Santa Catarina and the limit of Santa Catarina-San Sebastián.

AGREEMENT: Construct them as they were at point number six.

11. Request that the University of Guadalajara collaborates with SEMADET for the fulfillment of the technical environmental studies for establishing a means of mitigation, remediation, prevention and environmental compensation.

AGREEMENT: This point deals with the Work Table specifically.

The points sent to the community and that were still not resolved by this meeting are:

- Reforestation
  - Reforest the stretch of 70+400 to 89+580, of the highway Amatitán-Bolaños-Huejuquilla el alto, that corresponds to the community of Tuapurie Santa Catarina Cuexcomatitlán, with species of pine, cedars, and manzanillas in the surrounding thirty-one hectares
  - SIOP will be responsible for maintenance during 10 years of conservation of soils and a pruning program each year.
  - Contracting laborers from the nearby communities, to monitor, guarantee success in planting and survival rates having previously performed technical training.
• Sign a convention of collaboration between SIOP, which guarantees the work of reforestation from the beginning to the end.
• Compromise with SIOP in the creation of a communal nursery for producing pine trees and species native to the region.
• In the case of reforesting the pines the community proposes the works be done in the area of Chonacata y Nueva Colonia.
• Soil restoration in the affected parts to make the establishment of previous kinds of plants viable and the implementation of a program of reforestation.
• The community has made the decision of not negotiating reforestation for economic reasons.
• The reforestation projects should be carried out when the work of reestablishing the stretch of highway has concluded.
• Water works
• Open and close with sunken rock all of the ditches, the streams in order to avoid the deterioration of the earth and runoff.
• The maintenance of springs, reforestation and the watershed, will be circulated with sunken rock.
• That the works will be carried out with technical studies and that the government will guarantee compliance.
• The materials that will be used (sand, gravel, rocks and water) will be purchased from the community. The community will decide through technical studies the extraction of the required materials.
• Implement a maintenance program (rehabilitation and repairs) of the highway with pavement being responsible that the government will fulfill the convention signed by both parties.

• Rescue of the Sacred Site Paso del Oso

  • Paso del Oso is located at the coordinates of UTM 13 North X609755-Y2469489 at 1991 meters above sea level in the indigenous community of M’xipa (Tenzompa), municipality of Huejuquilla el Alto, Jalisco.
  • Due to the fact that they had buried the rocks of Paso del Oso, the rubble will be removed in the following way: first the top layer will be with heavy machinery, while the second layer will be done with hand tools.
Previous to the meeting of the work table of engineering and construction the 26th of August, we received a written notice that resumed the proposal of the community in respect to the work table. In said written notice it was established that the community had constantly proposed that the fulfillment of the ruling of the injunction should be related to questions inherent in the Wixarika culture, and in the context of the indigenous rights of our country.

They proposed that the existence of the ruling and constitutional law should guarantee consultation and free, previous, informed consent each action of the government in the fulfillment and interpretation of the sentence and ruling. Understanding that the community found the possibility of exercising their right to participation in each details that occurred in the common good and speaking. Encompassing the technical and legal aspects through the communities’ techniques and the body of advisers upon which it relies. The free and previous aspects of the law, consultation and consent, are universally interpreted to not be beneath no type of intimidation or hidden conditioning, beneath no title of route of political action or of interest and the flow of information should be complete and previous to whatever taken decision and in this case the community reiterates that it promotes the general plan for any decision and for each particular phase. That is to say with plan participation from conception to execution the actions of fulfillment.

Another aspect on which the community insists is respect for any option should assure the property and total dominion for all of the communal territory and that in spite of having established a study consistent with current conditions, the position of the community is that there is no interest in changing the current conditions of the status that in this sense guards the common good, that is to say that the road is part of the common goods. And as such are subject to the protections established for these and should continue being, there for they are not interested in accepting any exchange, including the right to pass.

To maintain chronological order of the precedings the 28th of August brought about the Environmental Work Group in which SEMADET presented a chronogram of the work obtained from the pending permissions as much as the state environment like the federal. The agreements are:

- The Institute of Ecology and Conservation for Biodiversity at the University of Guadalajara taught by Dr. Eduardo Santana Castellon would be responsible for executing the technical studies corresponding to the fulfillment of the ruling of the mentioned injunction. To realize the necessary environmental impact studies in
which the community would participate in an active way in the elaboration of said studies

- Based on these studies personnel from the community would monitor and supervise the preparation and construction of the environmental material.
- The community would present a written answer to the timetable introduced by the state government.

In this same workgroup they would deal with the theme relative to the restoration of *Paso del Oso* where the community establishes that which is necessary to turn in a specific quantity in order to proceed to the restoration and it has to be in cash.

Refering to the work group, Juan Carlos Hernandez says: “the first workgroups were born, then we decided to divide them into a judicial group, an environmental group, and engineering and construction group, and a group with the special work regarding *Paso del Oso*. We began immediately in July, we met the General Secretary of Government in the Palace of Government, which here in SIOP with these themes and in this way we continued working until September 2014. This generated some internal frictions, or we did not express ourselves correctly as soon as we had a clear idea that we were going to transmit and check this idea that they had interpreted.” (Hernandez, September 2015).

The new judicial director of SIOP, Julieta Parra, who entered the situation with the new administration but took charge in 2014 said:

“I did not know much, I only knew that they had constructed, well, that they had planned to construct a highway from Amatitán to Huejuquilla, passing through Bolaños, in all of this North part of Jalisco and that there had been a conflict with the community of *Santa Catarina* for the question of not asking for authorization to build the highway. So it went through their territory, it destroyed the sacred site *Paso del Oso* and that was practically all that I knew. They were begining negotiations. There was a meeting in Colotlán with the community authorities and the authorities of the state government. The Secretary General of the State and I the governor were there, because they needed to fullfill the scentence” (Parra, September 2015).28

“The 12th of September of 2014 was the first meeting that I participated in. It was a judicial workgroup where I first began to be the General Director and it was there that I realized the dimension of the conflict now that in a certain moment the community meeting was not in agreement with certain suports that the secretary
general through agrarian affairs and they said that there was not going to be an agreement. So there was no reason to be there. In this moment Juan Carlos Hernandez intervened and calmed the situation a little, to the point that they could continue the meeting. Everything originated in writing, we did not have the lawyers in agreement to present written and they were doing the requirements in unfulfillment because we did not pay attention to what we should have.” (Parra, September of 2015).

In order to understand what happened this day in the meeting it would be sufficient to know that the points of the community of San Sebastian made the Director of Agrarian Affairs conclude that:

1.- In regards to the point of reestablishing how they have carried out the consiousness of those of us who were part of the judicial workgroup established on the 18th of August, for the fullfillment of the scentence, it would not be too much to say that for our community, said fullfillment in no moment implied or recognized the contintuation of the Amatitán-Huejuquilla Highway project inside of our communal territory. Furthermore the formation of a judicial figure in our communal territory for the assignment of resources necesary for compliance is not in the interest of the community. Likewise, they consider the best analyzers and proposals to be established in our communal roads that do not result in an excess in the budget that should consider them founded in the integral reestablishment of our community affectations like careing for the environment.

This section originated due to a lack of information that had part in the involved team, which caused that they beleived that they were going to retake the highway works, which the community denied. This road which they propose is not part of the Amatitán-Huejuquilla, this road is in community territory and they ask to have their acquired rights respected.

2.- It is necesary to clarify that what they see of the five points where they should carry out works of hydraulic infrastructure through the length of the community highway; they should implement the materials and analyzed technical observations by the commmunity. Above all they should attempt to conserve and improve the current conditions found in surroundings that are directly related with the reintigration of our fundemental rights.

3.- In relation to the reforestation which was orderd by the ruling on damages, we consider the same to be realized under the supervision and guide of authorities and experts in environmental matters who can guarantee a friendly
fulfillment and principally the least efectation inside of our communal territory. Once we have shown the importance of preservation and conservation of the environment. Because what the community found working with specialized groups of the Manantlan Institute of Ecology and the Conservation of the University of Guadalara with the objective of scheduling the activities that they should cover for the general fulfillment and reforestation in particular, because once identified the times and forms that they should realice the works, we will do out of knowing the involved authorities for the fulfillment of the same.

4.- In respect to the rescue of Paso del Oso, it is necessary to calrify to the pariticapnts of the workgroups and the authorities involved in fullfilling the ruling that our indigenous people, have a cosmology that dates to time inmemorial which requires a specific set of ceremonies. In such circumstances, the rescue of the sacred site Paso del Oso, in agreement with our cosmology implies a series of ceremonies that permits cultural reestablishment inside of our community which was gravely affected by the burial of said place. After the Mexican justice system recognized this situation accompanying our ancestors and spirit guides we have analysed the necessary cultures that should satisfy the properopening of this place, so that once the analysis is finalized we will come to have written the necessary requirements for the fullfillment of the refered point, previously expressing that said costs will only take into consideration future activities that should be carried out for the proper rescue of our sacred site.

Derived from the meeting held on the 12th of September of 2014, they turned around the way of treating the theme between the authorities and the community, Juan Carlos Hernandez refers to:

“When you are inside of an injunction, communication is between the plaintiff which in this case is the community of Santa Catarina and the defendant, or responsable authority, in this case the the Secratary of Infrastructure and Public Works (SIOP), but always through a judge”

We then look to avoid the ruling in real terms because its range is damaging for the ends which sectratary was created. That is to say, we look to generate infrastructure, not to destroy it, at the end of the day the scentecne instructs us to leave everthing or leave it as it was, an enormous work, and wih very little sense now that the work has been carried out. Furthermore its inviable because now that they have cut into the hills, they have created enbankments. This was inviable in economic terms and perhaps technical terms also apart from the fact that from our point of view this will not benefit anyone.
The idea is to generate adequate infrastructure so that it can be taken advantage of by the citizens which in the end includes preserving infrastructure. This serves as the foundation for reestablishing healthy communication with the indigenous people, these are communities which historically speaking have been damaged and hurt by the government.

So if there has been a message of consolation and reconciliation for the indigenous peoples of the northern region of the state well they were already hurt by the previous administration. The plan is not to continue in these terms, we need to reestablish dialogue.” (Hernandez, September 2015).

In regards to the problem of communication between the community and the authorities in relation to that which was established by Juan Carlos refering to the fact that these communites have been hurt, Julieta says:

“Another area which they felt was non-compliant was that when the government officials arrived in the helicopter they were there for a half hour and then left it without making a single promise, so the local people felt offended by their behavior since the beginning, is a part of them that hurts and this has created a tremendous lack of trust, because this is what government officials do. Later they would like to beleive that we are equals. So we had to engage in a series of activities and synergies.” (Parra, September 2015).

After that meeting, the lawyers noticed that it would be necesary to have an interdiscipliary team inside of SIOP, Lic. Juan Carlos Hernandez said:

“In SIOP at that moment we were trying to organize, the activities, not only on this theme. They settled the case that was the first thing we dealt with the rest of the management. At that moement we requested the manager of the project, the the manager of highway infrastructure, and the manager of rural infrastructure that they were present to work and review the reasons that projects like Amatitán Huejuquilla were detained. The point is that the idea in that moment was that everything that was responsible to the judicial, in a way that we could coordinate with the rest of the managers. In that moment the idea was to try to work with the problems that already existed, that were falling behind in previous administrations, so we could solve them” (Hernandez, September 2015).

Even more than the above, in this moment it was recognized that this theme had a higher connotation, as the same Juan Carlos comented:
“This matter has two gradients, the interest in the legal that has to do with this part that not only that appealed that normally any ejidal population nucleus is that which pays me for my land but rather a stronger appeal that did not have to do with a payment for land. They have, at all costs, looked to conserve, their property which is the land, given the connotation of the character of the sacred site that they have on their lands. Rather, the appeal comes from first, that you did not ask me for permission, second you violently mishandled a site which is sacred for me, third you damaged nature you need to compensate me for the damages done to nature.

They did not look for the element, money -compensate me for the affectation that I experienced- and now that you have payed me I don't have a problem with the road. On the one hand the legal aspect was important and on the other hand the social aspect, trying to acheive equilibrium in measurement in the posible differences that exist in the North of the state was important.” (Hernandez, September, 2015).

The 12th of March of 2015 had varified another important meeting this time in the location of Pueblo Nuevo, a place where for some civil servants from SIOP was the first time they had visited it. It was necesary to hire a facilitator who could serve as a conflict mitigator.

The principal objective of the meeting was to agree on critical route for the works in order to fullfill the ruling, however, they could acheive many other things.

“The 12th of March of 2015, we had a meeting in Pueblo Nuevo, this was the first time that I visited the community at the mountains. Honestly, it had a huge impact because I had never been in a community and for me it was like being in another world, but I didn’t have a bad time, on the contrary, I wanted to learn, that’s the reason I was there. I think that because of this I won the trust of the community, first they invite you, then you had to go and then it becomes a great pleasure. We had a workshop; SIOP hired a facilitator in order to understand their cosmology. The facilitator was Rafael Gonzalez Franco de la Peza, he had a business that he called DEFINE (Diagnostics and Strategies for the Strenghtening of Institutional Iniciatives and Projects) and what he has done is facilitate the communication between parts that had a conflict of this type. It was one culture against another but finally we succeeded in conjoining everything.

Also it was good for me to see that we weren’t so bad, things were going well, that the planned strategy was functioning for winning the trust of the people. What the facilitator did was form better defined agreements so they could with a better sense know what we were about to do. This lasted from eleven in the morning until about twelve at night, we ate there; they offered us something to eat. We were
there and suddenly in the give and take, but we succeeded in creating a critical route.” (Parra, September 2015).

After the meeting in Pueblo Nuevo, the community celebrated an assembly in a ceremonial location called Pochotita. I will transcribe all the interview with Julieta Parra due to the detailed nature of the experience.

“We were delayed two and a half hours due to terrain and we didn’t know how we were going to go up to where we needed to go. They told us that they had to go to the assembly and see precisely how they were going to carry out the agreements how they are going to vote on what you are proposing right now.

We arrived very tired because we took so much time in coming down to the site, and there were ponds where there were gods, the deities, and they told us when we were arriving, I heard a microphone that someone was speaking Wixarika. I didn’t understand any of it honestly, but I knew that it was the beginning of the assembly. I think that there were more or less 1,500 votes but it was not everyone because some people were on the other side, some of them had gone on pilgrimage and others were still arriving. There was probably only 80% this was impressive, because we arrived and all of them were in their traditional dress.

It was a round ceremonial center, this was the center and all of the others were small ones on the outside, inside was grandfather fire you had to pass by to greet it and show it your respect and then you turned in a wand and you had to put it in a certain position so they could offer, but they told me that the women had to mix water with pinole, this is part of what women and men have to do, the wand, but now I did both things, and an elderly woman was looking at me and she was the one that told me that I had to make an offering. Later we said goodbye, we went to the assembly and we sat down on the chairs.

By the end of February a group of technicians from the University of Guadalajara in conjunction with SIOP and the community went they made measurements, to see the place, to take aerial photographs of the area, so that they could then create a projection to tell them what the project would be like, how we were going to carry it out. So they took some renders, which are like photographs where they superimpose what could be in the future over that which currently exists in the photo now” (Parra, September 2015).
Figure 12 Render about actual state and how it would like after the intervention of *Paso del Oso*. Tuapurie on the 13th of March 2015. Fernando Hernandez Ambrosio.
Figure 13: Render superimposed on the current site and how the finished roafs at Camino-Jardín would look once finished. Tuapurie on the 13th of March 2015. Fernando Hernandez Ambrosio.

They were fasting and spent all of the morning fasting and all of the morning reviewing agreements, this wasn’t just for us, this was an ordinary assembly and well, it was all worth seeing, when our issue finally took center stage, they began to present the renders and they explained that some showed how it is now, and others showed how it would be once finished. Physically it is like a poster and they
exhibited it, they lifted it up so everyone could see it and they were surprised by what we hoped to do.

In Pochotita, everyone was there, the old people, the mara’akames, all of the people, all of the community members and all of them had to sign the document of the assembly. They explained with an equally large sheet, so they could approve the route of the highway. This was when they said that they did not want it, that it was a highway, that they wanted to refer to Camino-Jardín, because they believed that it was not going to be a highway, this was an integral part of mother earth.

So the moment came when it was time to vote and it was very emotional, because everyone raised their hand, it was completely unanimous. They approved of the first route, all 19 kilometers. Next was Paso del Oso, it wasn’t difficult to get to this presentation, they also had engineers, they had a wixaritari professionals and also the University of Guadalajara was present in these meetings, they were the advisers. They requested certain measurements because for example an animals might not be able to pass though that space, or perhaps they wanted more light to be able to come through.

They did not want a normal highway made of asfalt, because the vehicles were going to go by at high speed and there could be an accident involving animals or people. So since this is an important corridor for them, imagine someone trying to cross and a vehicle hits them at high speed, this is what they did not want. They wanted to care for the territory a little more. This is in accordance with how the curbs are supposed to be, that’s why they call it environmental because it looks natural. You could use the curb you already have there that is pure rocks and trees, nature look better. But aside from the fact that it looks better for them it is important that the vehicles don’t drive by at high speeds, because they protect the animals, protect the people, they protect nature.

Once the assembly was over the community told us that they wanted to offer us a gift, but not one that we already had in the office or we would forget about it. They gave us a tour of the ceremonial center. We performed a traditional ceremony there for them” (Parra, September 2015.)

After this meeting there were no more institutional work groups, now it was more like they were informal meetings while they were moving forward the agreements through presentation of documents to the judge. It was decided that the communication with the lawyers and the community should be direct. They should have meetings together to ensure compliance with the requirements.
This way, deriving from the name change to *Camino Jardín*, they also decided to change the management in charge of executing the work, now that it wasn’t going to be a highway, they requested that the general management of rural infrastructure that they would be in charge from that point forward.

“Today we arrived at an agreement, now we are at the half-way point, now that they had looked at one side, and they had looked at the other and what they were making was a highway in this ecological zone. I am not a technician but it seems that this highway permits water filtration, that it has contemplated the passage of cattle, the passage of forest wildlife, that the routes coexist with the sacred sites. So now it has arrived at the halfway point that is why we are now at the point of execution. Now the problem is money.” (Garcia September 2015).

For the 2015 year, they succeeded at managing with the Secretary of Planning Administration and Finances (SEPAF) 20 million Pesos (1.75 million dollars) in order to begin with the substitute compliance. This resource ended up being insufficient for the construction of all of the necessary actions, but with this resource they can begin with *Paso del Oso* and carry out the environmental study conducted by the University of Guadalajara, and the rest will be applied to the first step of *Camino Jardín.*
In the meeting on the 12\textsuperscript{th} of March it was recorded that for the traditional restoration of the damages caused by the works of \textit{Paso del Oso} it would be necessary to carry out several ceremonies, and that SIOP would help the community raise the funds and resources necessary to cover the costs that these ceremonies would generate.

The first step towards complying with the sentence was that in the sacred site \textit{Paso del Oso}, due to the fact that it was not necessary to carry out a study that would obstruct the work, the only thing lacking was generating the document of environmental exemption which is awarded when there are works that already exist and they only need to carry out modifications.

For this reason, the 15\textsuperscript{th} and 16\textsuperscript{th} of August, they invited the public servants of the SIOP to participate in the Assembly of the Community and fulfill the ceremony of the restoration of the sacred site. The strategy in this occasion was similar to the one established in the meeting in March. We, the public servants, went and accompanied the community during the weekend, being part of the community even though it was only for a brief time.

This was the first time that I encountered the Mountains Range, I wish I could be as descriptive as the lawyer Julieta Parra, however, my personality is not like that. I will only say that it was a very impressive ceremony. For the first time I felt a responsibility to be a part of this project. The people of the community got close to ask me how we select the people who are going to work on the reconstruction of \textit{Paso del Oso}, when the machinery would arrive, if I would return when we were carrying out the project and I only thought “God Help me”. It was a very agreeable experience. But at the same time I knew that I was dedicated to something very important.
A way to summarize this chapter which describes in an empirical way the emergence of the process of Governance, is presented in a diagram that chronologically displays the important events of this process.
FIRST OBJECTIVE: PASO DEL OSO

As expressed in previous chapters, the first stage in compliance with the sentence consists in the restoration of the sacred site known as Paso del Oso.

The beginning of the restoration process was a meeting where they presented a render to the community showing how the solution proposed by SIOP would look. Always observing the requirements of the community, even though this required a great challenge in construction.

Previous to the meeting that took place in Pochotita we began with the meetings inside of the SIOP in order to review each of the aspects of the project. Furthermore a part that was very complicated for us as government institutions, was finding the resources to aid with the Wixarika ceremony that was very important for them, since before beginning the work we should “ask for forgiveness from mother earth” for the damages we had caused. Unfortunately the legal framework of Mexico did not permit using resources for traditional ceremonies. It was not easy, but thanks to compromise and the help of one of the general managements we could carry out this first step.

After the technical questions now the first requirement of the community was to make possible the recuperation of the sacred monoliths from which Paso del Oso received its name. No one knew the exact location, there did not existed
documentary evidence or photographs of this site due to the fact that it was not registered as a sacred site.

“They had some lost rocks; they were sacred rocks that were in Paso del Oso that we still have not found. We don’t know if the past administration blew them up with dynamite or what, but they were never found” (Hernandez, September 2015).

From this moment it was necessary to hire people from the community, from elderly people on the previously described group to local technicians who knew the local context. It is important to notice that at the Santa Catarina community there are two engineers, the same which had tried to be involved since the beginning of the project. With this they can assure supervision and compliance from both parties.

Figure 17 Photograph that shows the state of Paso del Oso at the beginning of the project in 2015.

Since the beginning we have tried to make the community see that it would be very complicated to try to recuperate them now that all of this was beneath seven meters of fill which was put there with heavy machinery. Even so they insisted that we have to find them.

The community indicated to us where it might be possible to locate the rocks. However we always had the concern that we were digging in the wrong place. Because of this we decided to make the bridge bigger with the end goal of trying to span the largest distance possible.
Furthermore, there also existed a requirement of the community that the excavation be carried out in two processes, the first of the most superficial layers by means of heavy machinery and later by hand with personnel from the community inorder to not damage the monoliths.

Stemming from this decision, the design of the bridge complicated things as well, now the dimensions were much larger than they had been proposed in the begining. Furthermore carrying out the tests of soil mechanics also determined the conditions of the soil were not as they had hoped. These kinds of changes are very common in the work, however, trying to explain this to the community was very complex, not because they were not trained to understandbut on the contrary, because we engineers speek before analyzing and the community still beleives that sayig something obliges you to fullfill it.
It also began to become complicated between professionals, now that the engineer in charge calculated the structure and it was very complicated understanding that we could not carry out the adaptations or the proposals that were different from the render turned into the community and approved by them. The first calculation turned in was founded on a rectangular bridge now that to do it doing it in the shape of an arc complicated the work. In other circumstances outside of this, all of the modifications that they proposed could be carried out without complication.

One of the most complicated moments of my professional career was attending the meeting on the 30th de August of 2015 in the location of Santa Catarina. In the first place I had to go alone even though they had invited authorities from all of the institution most of whom could not attend. I was the only government representative there. Without a translator and with a lack of experience in participating with the community I did not understand what was happening.

In this moment I succeeded in understanding how they felt in regards to the lack of answers from the government authorities. I tried to make them understand that I was there to dialogue with them but the discomfort they felt was larger because they invited me to leave the assembly. Clearly this without acheiving the approval of the modifications on the construction at Paso del Oso.
I returned to Guadalajara convinced that we could not carry out the modifications to the project and that we should construct it as it was approved. Furthermore upon getting to know the community my following worry was contracting a company that could carry out the works with the highest quality and social responsibility possible. We could not send just any company.

We were able to procure a getting together with the construction personnel and the authorities with the end goal of making them more aware of the importance of the work that we were going to be doing. We tried to help them understand that more than being an important work, more than just being judicial this was very personal for everyone involved. And then they began the construction of the works related to the sacred site.

But just as there were complicated moments there were also moments of profound satisfaction, one of these moments was when we received a call on part of the resident engineer of the work where he informed that the community had succeeded in finding the sacred monoliths and that they were performing the corresponding ceremony, to give thanks that they had not been damaged during the first step of construction of the highway.
At the moment of writing this thesis, the bridge was found still in construction in spite of being shown the photographs. Now that the calculist had determined that it was not necessary that the walls support the bridge, they were as large as they were shown in the original render.

However they brought to an end a meeting where people from the University of Guadalajara, people from the SIOP, the community and the construction business were present, in order to request that additionally to lengthening the walls of masonry due to the technical issues presented by the community engineers they begin reforestation and the image that was pending.
The process of governance is not easy, I can personally testify it, as though not the ideal state, this process depends on the wills of the participants as well as several external factors they can vitiate the relations between them.

As we could analyze, public servants must have a vocation for service and empathy for each of all social groups form a multicultural state as Jalisco. Furthermore, it is to recognize the value of the community to defend their beliefs despite all the difficulties and the legal process that had to involve.
IV. ANALYSIS

In this chapter we analyze this case study, how is it that they arrived to an accord with SIOP, comparing it with the previous government that is to say with SEDEUR. With the help of the theoretical concepts, we can explain how governance promotes these interactions of the government with the courts in order to resolve situations in public life.

This case study provides us with a clear example that in the beginning there was no governance, but rather a government in sigh to one objective: build a highway. As Gerry Stroker\textsuperscript{29} says, the government is characterized by its capacity to take decisions and make sure they are fullfilled. That is, the government as the oficial processes and institutions that facilitate collective action and this case was not an exception.

That the community halts the work broke with construction paradigms, SEDEUR did not know how to react and continued with the work, this brought the effected community to the point that it had to procede to a lawsuit against the Government of Jalisco.

Based on the constitutional reform of article two, they carried out regulatory adaptations in the legal context in order to assure the fullfillment of the constitutional disposicions emphasizing not only respect for indigenous rights, but rather the orchestration of action that promote development and access to justice.

We will observer, that distince bodies were necesary so that they could finally arrive at a favorable resolution for all of the members. The key point being the accords, the outburst of evident conflict, in which none of the parties (not the state government nor the indigenous community) could have seen the interests of the other.

INVOLVED STAKEHOLDERS

As it was established in the theoretical frame, Moyano (2009) advises that the rural environment is characterized by the presence of a great variety of collective associations whose activities respond to the vocation of local activities. This is done in conjunction with the institutions that play an important roll in the politics of rural development.
Stemming from the historical violation of the rights of indigenous communities we observe a great participation and involvement of non-government organizations (NGO) many of which should be recognized, since they have been known to contribute to social issues and in a certain case assume some of the tasks of the government.

Figure 23 Frame of Reference on the institutions involved in the process of governance. Created by the author 2016.

In this specific case the academia has been very close to the community in agreement with the comments of Nora Lorenzana. The University of Guadalajara is in charge of carrying out an environmental impact statement but in a way that is participative. Not like we are accustomed to where specialists go, review, measure and leave. The proposal of the academia in this occasion is to involve the community, including their knowledge in respect to their surroundings and present the cultural relevencies that this could generate. At the same time this study will serve to inform the community of the workst hat they are doing. This intervention
by the University of Guadalajara, has supposed that a gathering with SIOP is a challenge of governance in and of itself, given that the times of the academia and the times of government institutions are not the same.

There currently exist institutions that carry out actions for the potential solution of conflicts and prepare the means to achieve that the people reach higher levels of integral human development, beneath their own references in respect to their own perception and culture.

In reference to the private institutions or participating businesses, in this specific case construction businesses, I would like to add a special note stemming from the experience I have working in both sectors.

In this state there are very few socially responsible companies, this is a common factor since many of the companies promote projects that generate conflict and then participate in the resulting procedures in a way that is advantageous to their own interests. In participating in government projects, the companies should ask themselves if the free right of way exists and if the project corresponds to the reality of the place, this with the intention of defining if they will participate in the construction or not. The ambition makes it so this data is taken in an erroneous way and that they want to extract an economic advantage since the government does not take into account this information. Now that if for outside causes they have to cancel a project with the government, these businesses have the right to request compensations.

Fortunately for this case study, some businesses not only see the economic benefit but also understand the social responsibility that is involved in working for indigenous communities; this was recorded in the first objective: *Paso del Oso*.

The question arises, where is the federal government in all of this?. In agreement with the vision of the Commission for the Development of Indigenous Peoples (CDI) is a public institution oriented to the sustainable development of indigenous peoples and communities. It promotes respect of their culture and the exercise of their rights. Furthermore, one of its strategic objectives is to strengthen participation in indigenous society as well as coordination in government planning and gestation of the development of indigenous peoples (CDI, 2016).
THE CONFLICT

The relationship between social conflict, institutional development, and governance open the doors for understanding the blueprints of permanent evolution and tension beyond the existence of states of equilibrium. States of Equilibrium that will freeze explanations of evolution and social change if we don’t introduce the notion of conflict (Urcuyo, 2010: 11).\(^3\)

The institution known as SEDEUR, did not know of any other way of doing things, now that it was in charge of bringing “progress and development” to the Northern Region of the State, justifying falsification in the documentation and the abuse of the rights of indigenous communities. But before continuing with the analysis we should establish why the previous administration had this concept.

Since on the one hand the government changes every six years in the majority of cases with this I mean to say that the projects are not of long term. On the other hand the case merits special attention since the considering that the people we are negotiating with have another way of seeing the world. It is a culture radically distinct and hegemonic with another language other gods and another way of living.

As described in detail, the way that the government procedes to carry out public works is with non-existent consultations with the local people. Since they beleive that this way brings them to their objectives most efficiently. Here we took important limits because in the North of Jalisco there is another worldview. In this worldview the ideas of progress and the desire to elevate the human development index (IDH), or other indicator is not essential. But rather the relationship with mother earth, our surroundings, life, and community organization, in some way are what define *Wixarika* government.

The conflict is of great importance now that the community has seen that abusing the rights of those whom the constitution and international agreements refer to, in first instance because without their permission began to build a highway and second because they destroyed one of their sacred sites.

The lawsuit was a key demand in all of this process, now that thanks to it, and above all with the scentence in their favor, they could force the government to generate accords, by means of dialogue, work groups, in summary proceding as they should have from the begining, with consultation and participation.
It is difficult to predict what could have happened. However, I could venture to say that because of history and the process of the case, if there had not been a conflict, there would not have been such high levels of work in institutional teams, with the community of *Tuapurie Santa Catarina Cuexcomatitán*, with the universities that leant their services to the investigation (UdeG), the non-governmental organizations like AJAGI, the departments of the government like SIOP, SEMADET, SGG, and inside of SIOP with the legal department and the management of rural infrastructure.

**INTERACTION BETWEEN DIFFERENT ACTORS**

The organizations dedicated to collective action depend on other organizations. In order to reach goals, the organizations have to exchange resources and negotiate common proposals. The result of the exchange is determined not only by the resources of the participants but also by the rules of the game and the context of exchange (Stoker, 1998: 19).

To government is always, from the perspective of governance, an interactive process, whether it is public or private, it has neither enough knowledge nor the capacity to employ resources to unilaterally resolve problems (Kooiman, 1993).

For a large part the accords had to do with, that having the lawsuit on the government, but also with the will of public servants of SIOP to solve the problem. Furthermore it doesn’t just resolve the problem from the comfort of an office but rather by living with the community in their villages, in their assemblies, involving oneself in a direct manner with the *Wixaritari* and trying to understand their organization.

In agreement with Stoker (1998) there are three related modalities in governance. It appears right on the mark to me to say that in this case the modality of systematic coordination was applied. Now that it had established a level of understanding and support from both parties in which the organizations developed a shared vision and a capacity for working together that ended in the construction of a network that regulates itself, giving place to structures of governance intentionally chosen, with the outline of “game about rules” in which the consequences are not looked for nor foreseen, but rather issue forth an advanced process.

The institutional relationships begin to be more personal. In this sense, the testimony of Julieta Parra, sketched the sensibility for assisting this case, which was marked by an infancy close to *wixaritari* culture.
“My father was a doctor and he worked principally in prevention, he was in charge of a sanitation district and worked on many preventive medicine projects of public health. All of this part of the project we lived in Nayarit and many people from the Mountains in *wixaritari* communities came down to the health clinic. He always told us that *wixaritari* children were very beautiful and that they had eyes like marbles. He was right, now I pay a lot of attention to the children in the communities and yes they are very beautiful and they have very well defined eyes.

He confirmed that they were very intelligent, that we *mestizos*, always had the idea that they were backward or that they did not accept progress or that they did not accept a lot of things because they are ignorant, however, he taught us that this isn’t true, he told us the opposite, that they were very intelligent, even that they were more intelligent than us, that they lived with nature and that their culture was different and because of this we didn’t understand each other sometimes.”

In this sense Juan Carlos Hernandez expressed, “We began to know the authorities because they always came together, and then began that as public servants you have a very western vision of how things are, but that they will change your vision, you will come to understand a little bit the things that are actually important for man suddenly things will seem very simple and small. Dialogue is what permits this understanding” (Hernandez, September, 2015).

Even though we have succeeded in working together, we continue to have distinctive perspectives of what we did together. Ain the end Nora affirms:

“The community understands very well that it exists, the confirmation that its rights are respected so for now we are at peace, we are in dialogue, we are working, now they are going to begin the work of *Paso Del Oso*, we are going to have an environmental certification for the first time.

As a community lawyer, for me, while they respect the community and its needs en the way that he community wants, everything is good. If the community tells me that they are non-compliant or something we intervene and fix the situation, but right now everything is good”. (Lorenzana, September 2015).

Inside of the same government, there are different positions and interests. This is not a homogenous government. Including inside of the same SIOP there is a diversity of opinions and ways of proceeding. As such, these positions are not inmovible. They change with time and administrations. Next Julieta describes to us
the different attitudes taken before the case with the community of Santa Catarina between Agrarian Affairs and the new administration in SIOP:

“I think that this was part of our success as well, that we did not just see the judicial part, but that we were also sensitive to their customs and traditions after that time we met more with the lawyers. We even held bonus meetings in order to arrive to different accords. But the lawyers always defended everything, tooth and nail. The truth is that I respect them. They knew what they were doing. They did a really good job. That’s why they were there. They did what they needed to do.

“All of the time I think about this, about what we acheived. I think about the team that we created in the few resources that we spent. That even now we did this with very little money. Because really you don’t need much to do what we did and now all that is left is to finish it. We are not going to finish in one year or two, we went to the pas of the community with them showing us where it is because it is their land, it is their territory it is their home a they have always said -this is our home, enjoy it.- Well, that’s what we did” (Parra, September 2015).

In this particular case we had the participation of NGO’s who offered the active motivational ingredient to get things going. It should be stressed that if it was the participation of different social actors this process was not the result of a summons issued by an authority, but rather a citizen’s lawsuit supported by people at the local level who who participated in various ways. The reques of the non-profits was that they complete the aproved legal instruements and have contributed to establishing new forms of interaction with the authorities. These organizations have made the issue visible in political, social, and technological terms.

The challenges for dialogue, consists in progress being open to the other party and knowing how to continue arriving at agreements. It also has to do with if from the time we are children society raises us to be more inclusive of other cultures especially diverse cultures inside of our own country.

Furthermore the back wardness, in which we find indigenous communities, is really a product of the fact that government officials can’t speak their language, they don’t know their habits, customs and worldview.
GOVERNANCE IN THIS PARTICULAR CASE

Governance means recognizing the capacity to make sure that things get done, which is not based on the governments ability to employ or send an authority, but rather that the government can employ different and new techniques for directing and guiding (Stoker, 1998).

The poverty that has been prevalent in the rural environment in Mexico has demanded that the government implement diverse and varied projects and programs of rural development. All of these should have the central purpose of improving the living conditions of the people who live in this environment. However, the results have been different; these wellfair programs have brought about in the rural citizens, a larger dependence on the government, on top of a partial solution.

In front of this situation, it is necesary to modify the style of rural governance in order to help NGO’s, Academia, population and institutions to generate strategies and proposals using the participation and self-management with the purpose of contributing to the development of rural areas.

So from a perspective of rural governabillity, development should cover five perspectives (Torras, 1995: 22-23):

- The human. Development should be dependent on a free election of peoples. Change of the social and economic conditions is always desirable, when it translates into a high quality of life for the population.

- Social. Each society should be capable of analyzing its own objectives with the objective of acheiving the wellbeing of its members such as the collective autonomy.

- Participative. Each community has its own way of organizing itself, however, people are first, at least it should be able to obtain equilibrium between need and available resources.

- Collective. Looking for organization community solidarity should be the foundation for working and strengthening fulfillment of the individuals and with them strengthen the entire community.

- Cultural. Integrate the development process the conservation of wealth through the presence importance of the community in international environments.
Look for development in rural areas means four great things in question of governance.

**Figure 24 Diagram that shows the four great challenges of rural governance. Created by the author 2016.**

The first, understands that urban zones are codependent on rural zones, and exist permanent and reciprocal fluctuations in between these two zones. A city completely isolated from the rural zones that surround it cannot subsist, should construct a real functional system.

The second challenge is that we find the rural population highly dispersed throughout its territory, uniting a diverse topography that our state has. This made things difficult and increased the cost of bringing basic infrastructure, education, and health to these communities.

Third challenge is perception; we believe that when we talk about rural zones we almost always talk about poverty and welfare. This would appear to be correct if we take into consideration, for example, the average lifespan of people who live in rural zones is ten years less than in urban areas.
The last challenge, the coordination in between participants of rural development, such as different levels of government and productive organizations, with the end goal of directing the politics and resources to the priorities of the rural sectors: take down poverty and strengthen the economic development in these regions.

In spite of the previous challenges, we should take into account the opportunities that we currently have to help us confront these challenges.

Principally that the rural population is largely young, this means that Mexico has enough of a workforce for the following decades, which we can consider to mean a higher productivity and a detonation of economic growth. Combined with the previous, the rural environment has not been used to its full potential advantage therefore, we have in front of us a unique opportunity to utilize natural, cultural and touristic resources in a sustainable and efficient way.

Governance is an ongoing process; in this case we analyze only start. We are far from it to qualify as a successful; we can only conclude that it is a case study where we can see clearly the difference between relations generated from the application of as mentioned term governance.
V. CONCLUSIONS AND CONTRIBUTIONS

With this chapter concludes this work, we end the process of analysis of information and plan experiential growth as part of this process. This work has made me question my work as a public servant, especially in consideration of the responsibility that we have to respond to the demands and expectations of citizens, and the opportunity we have for being agents of change inside of government institutions.

What is interesting in this case is that without knowing it, the community arrived to a level of local governance. In spite of the fact that the concept of governance is now included, defined, and outlines in the Jalisco’s State Plan for Development public officials don’t know what it is. In this case we arrive at governance through the environment of the conflict and because public servants in the second administration had the good sense and openness to engage in governance, however they were not consistent in that they were engaging in governance.

For the lawyer of the community: “At the end is a very important precedent in terms of indigenous rights, of traditional access, in terms of cultural rights” (Lorenzana, September 2015).

Likewise, Julieta Parra, had this to say about the process: “I believe that in the beginning no one understood how important this was and until we saw all of the ceremony, when we saw the way that they accepted us into their community, when they saw that we really wanted to comply, it was as if all of this were very relevant. I think that coming to an accord with an indigenous community after seven years is very relevant, even at the international level.” (Parra, September 2015).

In line with the focused attention on ethnic groups of the world, today there exist diverse institutions and international organizations which promote respect for the rights of indigenous people, as well as their protection and comprehensive development.

Mexico has been a part of conferences and work groups that outline orientations, proposals, strategies, and mechanisms of guardianship on the rights of ethnic groups to the degree achievable in the interior of the country a considerable institutional force for marking and guidelines of public policies and to effect institutional actions that have made it possible to resolve these difficult problems with special emphasis on themes related to access to justice.
The commission of human rights of the United Nations is regulated at the international level. The Organization of American States and the International Labour Organization principally just like the forces of international financial organizations, like the world bank and the interamerican development bank determine the international context the definition of reach and the conceptual framework that contextualizes the situations of diverse groups of people and marks priorities and diagrams for assuring a harmonious development.

Our constitution recognizes that which entails a polycultural configuration; however in the great reform of 2001 it has not been properly implemented in national institutions. The national democratic system should recognize cultural diversity in all of its dimensions, including the right to judicial institutions, and should on its own eliminate structural and ideological conditions that generate and ustify exclusion as one of the principal weapons in subordination and discrimination (Ferrer, 2002: 171). 34

It is clear that it still requires a lot of work to achieve recognition of the villages and indigenous peoples as subjects of the law as legal entities with territorial rights and political representation. Evidence shows that judicial norms are not always effective and recognize specific indigenous rights. The factors that provoke this problem are diverse, from a lack of knowledge of their existence or content, discrimination, and sometimes a lack of norms for their implementation.

There were various key moments for the resolution of the conflict that they did, from the revised theory of the first chapter, which we call governance. The first of these was the change of government, in the moment that the new administration met with the civil and traditional authorities for the sake of revisiting the case, demonstrating openness and the availability of dialogue.

The second key moment, from my point of view was when the lawyers of SIOP, approached the community in order to work together. The governance began to operate with better efficiency in this moment, now that in this way all of the stakeholders began to work together.

Combined with this key moment, there were other smaller actions that were abandoned, for example when the SIOP requested studies and advisory from the University of Guadalajara in addition to the environmental impact study.
Another wise decision was the formation of four thematic work groups: the environmental, the judicial, the infrastructure and one dedicated to the strategic recuperation of the sacred site Paso del Oso.

The guideline of the process was founded on the model of governance: grassroots action, long-term empowerment, and the collaboration between external agents and local authorities.

In the case of the Wixaritari it is a testimony of a village alive with historical, cultural and natural wealth, but with a strong need of improving their quality of life, respecting their ancestral and traditional customs as it is needed to preserve their natural environment. The new conditions establish respect for the indigenous worldview and maintain respect for sacred sites.

In spite of the exercise of public activity, that is to say, governments are always rushed; the key message is that it is better to invest time in a good citizen’s consultation than several years lost in lawsuits.

The indigenous communities always have a point of view that is distinct from reality. All the more reason that they should be consulted, lobbying and workshops to share, knowledge, familiarity and points of view for arriving to a consensous. Communities usually show a strong ethnic unity and characteristics that are emblematic of their cultural origin. They maintain the use of their language and maintain their worldview from the perspective of their traditions, custos and norms.

In spite of the fact that it has been demonstrated that the community has a great amount of emperical and practical knowledge, which should be respected, valued and approved, not only for its validity and utilitu but also because it forms part of the empowerment of the community. This has been the case that has passed through a long fight; however it has given good fruits and an example of how to come to resolutions with diversity, with indigenous communities.

Even beyond my own role, I have to ask the question, are public servants sufficiently trained and sensitive to the needs and requests of a diverse, multicultural population with heterogenous worldviews? The elements of this case may serve as recommendations for best-practices in governance.

1.- Governance directed at rural communities especially at the indigenous communities should reinforce participation, cohesion and a sense of belonging,
always respecting the human aspects which are not visible, including local history, worldview, values, ideology and community expectations.

2.- Social participation should consider how to help vulnerable groups, however, it is necessary to establish limits in the use and abuse of guaranteeing that they be utilized as a system of empowerment and not as a mechanism of manipulation.

3.- Rural development in Mexico should center itself on the people before things in particular, poor people. As simple as the maxim that says: “the last shall be first”.

4.- Generate a genuine and truly participative and democratic process, from the local to the regional and the national, visualizing the inclusion of the community in the outline of equal and sustainable development.

5.- The problems of the countryside transfer to the city, especially backwardness and poverty. Indigenous migration stems from a lack of opportunities in their original communities, aggravating the problems of urban poverty.

6.- Human aspects which are not visible like local history, worldview, values, expectations, ideology, and interactions inside of the community should be considered inside of development projects.

7.- Raise awareness about the peoples of different cultures inside of the country, beginning in elementary education. Not just in terms of folklore, but in terms of anti-racism, anti-discrimination. This would also educate public officials.

In the case of the highway, true governance, understood as a process in which all participating parties are consulted for a public work; was carried out thanks to the community of Santa Catarina Cuexcomatitán. Since they began the legal challenge, in which the government of the state of Jalisco, all that was needed to be done was consult them, do work groups, and work in conjunction with universities like ITESO or the University of Guadalajara, with NGO's like AJAGI, with different government institutions: SIOP, SEMARNAT, Agrarian Affairs, the General Secretary of the Government.

We cannot divide reality into centralized parts. We cannot think of the inhabitants of a rural area as if they were not people. We cannot think that they are not organized and don’t have forms of government. On the contrary this case has spoken for itself and has demonstrated levels of governability for the rural indigenous community of Santa Catarina, better than those of the state of Jalisco.
Recommendations for IGLUS

As a Master of Innovative Government for Large Urban Systems with students from all over the world, specializing in diverse themes, I would suggest taking into account the following:

• Governance should be a process of continual adaptation that contributes to the solution of problems and taking advantage of opportunities to maximize under constantly changing conditions.

• Large Urban systems are always linked to rural systems. They are not isolated, they are interdependent, and they should be taken thematically in planning like themes of government.

• Always consult the population, since they have to live with decisions made at the government level. Often people forget that the government exists to serve the needs of the governed not to serve the needs of those who work in government.

• During training they constantly repeated the statistic that by the year 2050 75% of the world population will live in big cities. The indigenous do not run contrary to this tendency. Currently, one in three indigenous people live in a city in Mexico. The principal motives for migration are the conditions of marginalization and poverty, and the lack of educational and health institutions.

• Cities only consume, they do not produce. How can we imagine that cities will survive on their own if they are not self-sufficient? Not even in terms of resources like electricity, gas, nor the production of food?
8 Constitución Política de los Estados Unidos Mexicanos (1917).


24 Interview of the lawyer Julio César García, Contentious auxiliary Management Coordinator Amparo Trials (cases involved in district courts) takes the Trial of Santa Catarina, September 11 2015, Guadalajara, Jalisco. Realized by Gabriela Gil Veloz.


26 **Google maps** (2015) [https://www.google.com.mx/maps/dir/Huejuquilla+el+Alto,+Jal./Amatit%2C+Jal./@21.8861992,-104.1767884,8z/data=!3m1!4b1!4m13!4m12!1m5!1m1!1s0x869d3d80ccc38d7f:0xaeb2a0be68ce0617!2m2!1d-103.8961303!2d22.6285082!1m5!1m1!1s0x8426175b15d027ef:0xca64a9cea24bcac012m2!1d-103.7318129!2d20.8364544](https://www.google.com.mx/maps/dir/Huejuquilla+el+Alto,+Jal./Amatit%2C+Jal./@21.8861992,-104.1767884,8z/data=!3m1!4b1!4m13!4m12!1m5!1m1!1s0x869d3d80ccc38d7f:0xaeb2a0be68ce0617!2m2!1d-103.8961303!2d22.6285082!1m5!1m1!1s0x8426175b15d027ef:0xca64a9cea24bcac012m2!1d-103.7318129!2d20.8364544)

27 Interview of the lawyer Nora Lorenzana, lawyer of the community of Santa Catarina, September 18th 2015, Guadalajara, Jalisco. Realized by Gabriela Gil Veloz.

28 Interview of the lawyer Julieta Parra [Interview by Gabriela Gil Veloz] actual Director General Jurídico de SIOP, September 3rd 2015, Guadalajara, Jalisco.


