

**LEARNING FROM INNOVATIONS**

# Local Government and Human Rights



Organized by Gonzalo Delamaza

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## Local Government and Human Rights

Organized by  
Gonzalo Delamaza

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# INTRODUCTION

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Gonzalo Delamaza<sup>1</sup>

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In recent years, human rights have become a prominent issue in politics and society, creating a new idea of what human rights entail, extending to include not only social rights, but economic and political rights as well. According to the legal code established by the United Nations, every person should have access to these rights and it is the obligation of national and local governments to protect these rights for all of its citizens.

Despite this, many of the links between local government and human rights and how to apply their standards in local governance are yet to be discovered and explored. In essence, human rights and local government both deal with delivering certain entitlements to the public. In fact, human rights are standards that are relevant to various government provided services including health, education, water, and housing. For developing nations around the world, currently struggling with sustainable development and establishing good governance, it is interesting to look at the advantages of utilizing human rights standards in designing policy.

National and international juridical condemn are not enough to satisfy promotion, validity and defense of human rights, urge effective mechanism to put in motion expedite and accessible defenses when violations to these rights happen, besides of a cultural socialization among government employees and citizens about the ownership and effectiveness of human rights. The growing role of local governments, especially in charge of social tasks, defense of environment and development, increase the implementation of them, also grass roots practices on local politics where human rights have being incorporated, even before than in parliaments or national stages. It is this approach and innovative actions on this field, which leads to make things happen in many places in the world. All in all, makes pertinent to explore the new local steps that are going on, in order to make closer the human rights perspective to every day life of people.

As human rights have recently become a central element of international policy, it is important for us to highlight instances where great strides in developing them in a particular region are visible. Therefore this book presents how in eight countries, different organizations are tackling in issues like gender, indigenous and youth rights, among others.

From China this compilation introduces a Comparative Study on Women's Political Participation in Local Governance, which analyses four cases after the enacted law that, in accordance with the Constitution of the People's Republic of China, ensures self-government by the villagers in the countryside. This article tries to solve the question about what kind of influence has the change of women's political participation in rural governance; South Africa presents a pool of projects with emphasis on abuse of women; they range from the access to justice for women & children, two court-based projects, filling a gap in services provided by the Courts for women and children, and a national anti-rape program.

Women at Risk from Violence it's also an issue addressed by this book, in the article presented from Brazil, Casa Rosa Mulher has become to be the first public action with broad, multi-disciplinary and inter-sector characteristics that focused specifically on women's rights.

Indigenous rights it is present in the contributions exposed by Chile and USA programs. The South American program analyses an experience which led to an indigenous community to get the approbation of a bill for the recognition of the Maritime Space for Indigenous People in Chile, just publicized on February 2008. While USA Program shared two experiences, the first one about The Navajo Treatment Center for children and their families, founded on 1990, which aims to provide Western and Navajo therapy to children who have been sexually abused and second the case of YA NE DAH AH (Ancient Teachings) School "dedicated to providing community youth with the skills necessary for functioning in a modern world while maintaining Native knowledge and practice".

Youth rights are introduced by the case Mathare Youth Self-Help Slum And Environmental Cleanup Project in Kenya, which "is a self-help youth program linking sports with environmental cleanups, AIDS prevention, leadership training and other community service activities involving approximately twenty thousand young people". Besides in this book it is presented a case from a municipality in Mexico, immerse in a drug trafficking environment with a high homicide rate, where a restructuring and modification of administrative justice system is implemented. This article describes how the municipal government has promoted innovative policies with the aim of decreasing the rate of offences, listening especially to "citizen complaints on municipal public security or the doing of municipal justice which, has traditionally consisted of complains against abuses".

The last chapter of this edition it is about The "Colectivo Impulsor" for the Monitoring of Recommendations of the Commission of the Truth and Reconciliation (TRC) in Huánuco, Peru, which it is an organization created for monitoring the recommendations of TRC and the promotion of culture of peace in one of the regions more affected by violence within the country and with an increase sharply of coca cultivation.

We hope this publication contributes to reflection and practice of politics based in universal human rights, thought they adopt a specific appearance in

each place and circumstance, we believe through interchange, learning and cross fertilization it is possible to strength and widen human rights relevance throughout the world. •





# Chapter I - Gender

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# A COMPARATIVE STUDY ON WOMEN'S POLITICAL PARTICIPATION IN LOCAL GOVERNANCE OF CHINA<sup>1</sup>

Cases from Lishu, Qianxi , Hunan, Tanggu<sup>2</sup>

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1- This article is a part of Central Compilation & Translation Bureau social science fund project, the No. is 2020225.

2- It is very thankful Prof. Yu keeping for the cases of Innovation and Excellence in Local Chinese Governance. The author has attended two cases investigation in Qianxi and Hunan.

Que jihong

## Background

At the beginning of 1978, Chinese government transited to socialist market economy from the planned economy. In the countryside, Chinese government adopted the household contract responsibility system. The change of the Chinese economic structure has affected the way of rural political governance. The system of Villagers self-governance has been adopted in order to adapt the new complicated change. On November 4, the 5th Meeting of the Standing Committee of the Ninth National People's Republic Congress tried to enact Organic Law of the People's Republic of China, which are adopted at the 5th Meeting of the Standing Committee of the Ninth National People's Congress on November 4, 1998 and promulgated by Order No. 9 of the President of the People's Republic of China on November 4, 1998. This Law is enacted in accordance with the Constitution with a view to ensuring self-government by the villagers in the countryside, who will administer their own affairs according to law, developing democracy at the grassroots level in the countryside, and promoting the building of a socialist countryside which is materially and ethically advanced. According to the law, this is the primary mass organization of self-government, in which the villagers manage their own affairs, educate themselves and serve their own needs and in which election is conducted, decision adopted, administration maintained and supervision exercised by democratic means.

What kind of influence has the change of women's political participation in rural governance? The Constitution of the People's Republic of China encourages to train and nominate women cadres. Other professional laws also include the right of women's political participation. In the countryside the director of rural women delegation was designated directly by the rural branch of Party Committee. There was a director of rural women delegation in every village, whose job was to protect women's interest. After the change of rural governance way, Organic Law of the People's Republic of China involves women's political participation. The Article 9 indicates that a villagers committee shall be composed of three to seven members, including the chairman, the

vice-chairman(vice-chairmen) and the members. The members of a villagers committee shall include an appropriate number of women. In a village where people from more than one ethnic group live, they shall include a member or members from the ethnic group or groups with a smaller population.

However, “It is very difficult to realize the object of citizen participation, there are many different kinds of opinion in academic field and practice. Whilst someone support this kind of view, someone opposite that kind of view” (Li tuqiang, 2004:41). The rural women’s political participation is facing many kinds of problems. There is low proportion of rural women in the first election of village committee. Local Women’s Federation finds various resources and use different way to promote women’s political participation. On July 30, 1999, the Ministry of Civil Affairs prescribed the official file titled the Ministry of Civil Affairs’ View of ensuring an appropriate number of women in village committee, which asked departments of civil affairs in provinces, autonomous regions and municipalities to ensure an appropriate number of women in village committee. This article compares four rural cases , lishu, qianxi, tanggu and huan.

## Theory analysis

The word of “governance” is not new, but widely used in academic field. R.Rhodes gives 6 kinds of definition. (1)As management activity in the smallest state, it means that state cut down public outcome in order to get the biggest income at the smallest cost. (2) As company management, it means the organic leading system, controlling and supervising. (3) As new public management, it means the public service system that can integrate the market system with the management way of private department. (4) As good governance, it means the public service system focusing on effectiveness, law and responsibility. (5) As the system of social control, it means that government and public department cooperate with civil and private department. (6) As the internet of self-organization, it means the social coordinating internet on the base of trust and interest (Yu keping, 2000:3) As citizen participation, it means an internet of common value, system and relation at the various level of state and society in order to realize the objection which citizen can directly participate in democratic politics and maximize the public interest (li tuqiang, 2004: 188).

As democratic theory, the public participation simply means that citizen participate in public affairs. However, it is complicated to participation subject, participation object, participation way, participation level and participation intensity. The public participation indicates several trend in future: from mobilizing participation to automatic participation, from no-system to legal system, from simple participation to complicated participation (Li tuqiang, 2004: 31, 32).

- (1) From mobilizing participation to automatic participation. According state constitution, citizen has right and obligation to participate public affairs in modern society. However, in fact, some people can’t pay attention to

politics because of various influences and restriction. Many people can be passive in the political system. The trend of the democratic politics is that citizen can automatically participate in political life instead of passive participation by government guiding.

- (2) From no-system to legal system. Ordinarily, no-system participation is a kind of indirect, secret and no-balance participation. Modern politics change the rule by man to rule by law. Citizen realizes own political aim by vested procedure of law. The character of participation is often direct, open, legal and balanced.
- (3) From simple to complicated. At the beginning of citizen participation, its way is simple. Democratic theories explain that it is possible to direct participation of citizen in small state. It is very difficult to carry out direct democracy in modern society because there are many people and civil affairs are very complicated. Almond, Gabriel A. and S. Verba's study indicates that comparing with central government, citizens are easy to participate and influence the decision of local government because of the near relation with local government. At the beginning citizen can learn political participation in own residential areas and take care of public affairs relative to their interest, then gradually take care of state's interest, social life and development.

According to these kinds of trend, we can find two common characters in Qianxi, Lishu, Hunan, and Tanggu, mobilizing participation and learning participation.

The first common character is mobilizing participation. The status in these four areas is at the stage of mobilizing participation. The mobilizing subject is the department of Civil Affairs, Women Federation and Foundation. For example, Qianxi Women Federation's innovation is direct election of delegates to women's Associations. This innovation has succeeded in Women Federation's function (Chen Xuelian, 2003). First, technically, on May 1999, County Women Federation invited county committee, bureau of Civil Affairs and Women Federation in Lishu, where was the origin of "haixuan" of Village Committee, introduce what they had done and how they did. Moreover, County Women Federation also invited some specialists in Beijing give a lecture on local democracy, organize "specialists group of guiding election" and improve the procedure of direct election.

Second, Originally, County Women Federation organizes a "group of guiding election" consisting of County People's Congress, County government, County Bureau of Civil Affairs on condition that County Women Federation won the support of County leaders. Whilst the "group of guiding election" supported the innovation, town government helped Women Federation organizing the election. The Village Committee and Party Committee directly operated the election.

Third, on finance, County Women Federation had got enough support. County Women Federation could not get enough finance to drive rural women

to participate in public affairs only by county financial funds. In 1994, County Women Federation won the support of Ford Foundation that was brought by Beijing specialists, for example, the program of Women Law. Then County Women Federation could organize various activities to improve rural women's participation by positively trying to get program themselves. This kind of activity created the good condition for direct election.

Finally, on activity, County Women Federation made a series of "plans of rural women political participation"

The second common character is learning participation. The measures of women political participation taking by four areas indicated that County Women Federation paid attention to training. Before the election of villagers committee, County Women Federation were prepared to train some relative carders and staff, especially important women. After the election of villagers committee, County Women Federation arranged to train elected female member in order to improve their skill of management and earning money. This kind of training forced the female member to take the responsibility of rural governance.

For example, County Women Federation in Lishu paid attention to the training. In 2004, County Women Federation had a detailed working record. First, County Women Federation invited specialists to give a lecture. On April 6-7, 2004 County Women Federation ran "the course of forcing important rural women to participate". She invited professor Wuqing to give a lecture on "gender consciousness and citizen consciousness", professor Zhaoying, who taught in Chinese People's Public Security University, on gender and rural women election.

Second, Leader guided the election. Fanyu, who was a section chief of local polity department in the Ministry of Civil Affairs, explained "villager self-governance and women political participation". Liang lizhong, who was a section chief of combined department in province rural committee, explained the No.1, 2007 Center document. Xujin, who was deputy vice-chairman of county Civil Affairs Bureau, explained the development of village committee, the origin of "Haixuan", "the detailed principles of village committee election" and status of village committee election in Lishu. There were more than 400 persons who attending the course were the chairman of County Women Federation and chairman of Delegates to Women's Associations. The participation consciousness and political capability of rural women carders has been greatly advanced by training course<sup>3</sup>.

The following is the introduction of cases in four areas.

## Women Participation in Lishu

The biggest character of rural women participation in Lishu is the connection with the national known "Haixuan" system of village committee. The origin and development of "Haixuan" system deeply affected the change of rural women's

3- Website Lishu County.

participation. It not only gave an opportunity to rural women, which was a new way of women participation that make rural women who had capability and courage participate rural governance, but also a new challenge in traditional protective policy. From 1988 to 1989, County Women Federation has begun to force rural women to take part in the village committee election. Rural women participation gradually improved by the improvement of the “Haixuan” system that has resolved many practical problems (Tian xiaohong, 2002).

From 1988 to 1989, Lishu County held the first election of village committee. The election basically used the traditional method, which was that villager group repeatedly discussed and nominated the candidates and finally defined the name list by primary election. The formal election directly chose chairman, vice-chairman and the members of villagers committee by margin and secret ballot. There were 336 villagers committees in Lishu and 2352 members of villagers committee. In average, every village had 7 members of villagers committee. There were 336 women members out of villagers committee. In average, there was 1 woman member in a villagers committee, who was chairman of Delegates to Women’s Associations.

In 1991, Lishu held the second election of villagers committee. This was the first step of the system of “Haixuan”. The way to nominate candidate had a new change. There were 4 kinds of nominated way: by the rural branch of party committee, by villagers group, by more than 10 villagers, by primary election which became to the system of “Haixuan”. The proportion was the following: there were 67 villages that chose the way by the branch of party, accounting for 20.1% of 336 villages; there were 116 villages that chose the way by villagers group, accounting for 34.5% of 336 villages; there were 119 villages that chose the way by more than 10 villagers, accounting for 35.4%; there were 34 villages that chose the way by primary election, accounting for 10% of the 336 villages. Although little villages took the fourth way, this was a big breakthrough. There were 336 women members. In average, every village had a female member who was chairman of Delegates to Women’s Associations.

In 1994, the third election of villagers committee was held in Lishu. This election had begun to take the system of “Haixuan” that the candidates who were asked to make a speech before election were totally nominated by villagers. The election took the way of margin. The result of election was the following: there were 338 women members. In average, there was a female member in a village. It was different that there was a woman to become chairman of villagers committee and vice-chairman of villagers committee. It was a breakthrough that there was a woman chairman.

In 1998, the fourth election was held in Lishu. This election changed the way of “Haixuan” candidates to that of “Haixuan” the members of villagers committee. The result of election was the following: there were 339 women members. In average, there was a female member. There was not big change in figure. However, it was different that there were 2 women chairman of villagers committee and 2 vice-chairman. The system of “Haixuan” so allowed every



rural woman to enter for the election that it opened up the range of nominating women candidates.

In 2001, the fifth election of villagers committee was held in Lishu. This election continued to take the system of “Haixuan”. Many women attended the election. The result of election was that 301 women were elected. The change was big because the number decreased 38. In average, every village had not a woman member of villagers committee. However, there was imbalance. Some village had 2 women members. Other villages even had 3 women members of villagers committee. 3 women were elected for chairman and 2 women for vice-chairman.

These elections indicated that the change, which had connection with Count Women Federation’s function, was not big. What has the County Women Federation did was the following: Before the election, she advocated the principle that villagers committee had to have woman member; In the course of election, she encouraged woman to pay attention to their own right and positively attended the election; After the election, she helped the newly elected female members for enhancing the skill of the village governance by Women Family and Women Center.

## Women participation in Qianxi

The character of rural women’s participation is that County Women Federation created the direct election of delegates to women’s association. It aimed at solving existing problems of women in rural areas participating in government and political affairs. In order to promote the participation of women in government and political affairs and the development of democracy at the rural grass-root levels, the Women Federation of Qianxi County sought a positive and creative solution to this problem. Before the election, the Women’s Association of Qianxi County sought technical experience from Lishu County, organic support of the leaders of relative department and fund. Then direct election of delegates to women’s associations was held in village in order to let competitive women to attend the election of villagers committee.

In the course of villager self-governance, there was the low proportion of rural women in the election of villagers’ committee in Qianxi. County Women Federation thought that women candidates were lack of competition. Before 1995, 30% of the chairman of Delegates to Women’s associations were over 50 years old. As mostly designated by higher authorities, women cadres were responsible only to the higher authorities but not to the public, therefore they had no influence among the masses because of low public support. For example, in 1996, 68.3% of the directors of the women’s associations entered to the villagers committee in the fourth session election of villagers committee. From the fifth session election of villagers committee, County Women Federation took the system of direct election of Delegates to Women’s Associations by learnin the “Haixuan” experience in Lishu. She changed the challenge

decreasing the rate of women participation into the opportunity increasing the rate of women participation by the new system. The objection was to increase the enthusiasm of the broad masses of women for participating, to advance the capability of women participation, to promote the construction of the local democratic politics.

The system for direct election of women's association members adopted by the Women's Association in Qianxi County produced outstanding results. County Women Federation mobilized rural women in technique, organization, fund and activity. She prescribed the Series of Actions for Promoting Women's Participation in Government and Political Affairs. At beginning, She launched the professional program of interview with rural women carder in TV and Broadcasting; chose various materials about relative law, election knowledge, election skill and passed them on to the towns and villages. Then she ran the training courses for more than 1500 women to enhance their sense of participation. There were 3-5 young and capable women who had good political ideas, were cultured and competitive, and were dedicated to women's causes to attend the training courses. The content of training courses were that the organic department of county party committee mobilized women, the director of villagers committee exchanged experience, County Women Federation encouraged women to participate and invited Beijing specialists to give a lecture on women political participation. The way of training courses were that County Women Federation selected 17 towns as pilot sites, marked off 10 sections, combined tutorship with discussion, then chose classic women to be intensively trained, finally simulated election.

After the training courses, County Women Federation chose the pilot sites and circulated some specific documents such as Protocol of Democratic Election of Women's Association Members in the Rural Areas in order to follow the rule by county and village. Each village organized Democratic Election Leading Group composed of a member of party member and a woman member who did not attend the election. After defining the qualification of voter according to the election of villagers committee, County Women Federation publicized the name list of the total voters before three days of election. The name list could not wrong, repeated and missed. The qualification of candidates was under 45 years old, over middle class, healthy, four-self spirit, earning, capable, warmhearted for women service, just, loving-hearted and so on. The procedure of election was to apply voluntarily, to give a speech about election, to vote on site and publicize the result on site.

After one month of the "Haixuan" of Delegates to Women's Associations, the fifth session election of villagers committee was held in Qianxi County. Women in every village attended the election due to good preparation by Women Federation. Taking the example for Bai miaozi town that had 26 villages, 187 women applied as candidates. It accounted for two-third of the total voters. The election result was 21 women entering into the villagers committee (last session : 8). 301 women were elected as members of the villagers committee.

They accounted for 72% of the total villages (417). It advanced 2.7%. 5 women were chose as chairman candidates. 2 women were elected as vice-chairman. It was a breakthrough in the fifth session election that there was woman to be elected as chairman of the villagers committee. The system for direct election of women's Association members adopted by the Women Federation in Qianxi County produced outstanding results. It had greatly increased the enthusiasm of women for participation in government and political affairs and improved the system of local democratic governance.

## Women participation in Hunan

In the courses of villager self-governance, there were also the low proportion of rural women participation in government and political affairs in Hunan province. After the Ministry of Civil Affair formulated an official file titled Opinion About Guaranteeing Re-election of Certain Female Members into Villagers' Committee, Hunan Women Federation changed the policy of having appropriate women members in villagers' committee to have to elect a woman into villagers committee. This policy greatly promoted women participation (Dujie, 2004). The main actions of this project were: (1) Province Women Federation further detailed the official file of Civil Affairs Ministry, asking village having to elect at least a female member of villagers committee. (2) Trainings are intensive to improve rural women's qualities. They trained not the women, but town leaders, assistants of civil affairs, staff of rural election committee. (3) They took effective measure guaranteeing Re-election a female member into villagers committee.

After enacted the law of Organic Law of Villagers Committee in China, there were also the low proportion of rural women in villagers committee in Hunan province. In order to resolve this problem, the Ministry of Civil Affairs formulated an official file titled Opinion About Guaranteeing Re-election of Certain Female Members into Villagers' Committee according to the indication of central leader and passed it on to local government. Although the file provides local government a criterion, it was only a proposal. For example, the file proposes local government to elect these women who had good political ideas, were cultured and competitive, and were dedicated to women's causes to be elected into villagers committee.

The main creative action of Hunan was the following. On November6, 2001, Hunan Province Department of Civil Affairs and Hunan Province Women Federation formulated an official file titled Opinion About Guaranteeing Re-election of Certain Female Members into Villagers' Committee. Province Women Federation further detailed the official file of Civil Affairs Ministry, asking village having to elect at least a female member of villagers committee. "organizing, teaching and guiding villagers, especially rural women correctly using their right, electing these women who have good political ideas, were cultured and competitive, and were dedicated to women's causes into villagers

committee. If there is not woman in the elected villagers committee and lack of member of villagers committee, woman can be elected alone. If the post of villager committee is filled, the number of villagers committee should be added and a woman candidate should be elected into it”.

How did women elected into villagers committee and participate in village governance? Firstly, Province Women Federation won the support of province party committee and province government, having direct connection with province department of civil affairs. For example, province party committee and government held the fifth election session working conference moderated by Sun zaifu. Zhou bohua, vice-governor, gave an important speech. The participants were the director of city and automatic state party committee, government. Province party committee and government ask local party committee, government and department of civil affairs took five steps in the election of villagers committee. Guaranteeing a woman in villagers committee was an important step out of it. These five steps were: “(1) advocating mass for relative law and policy; (2) electing the members of villagers committee by rural branch of party committee; (3) nominating candidates directly by “Haixuan”; (4) supervising the election to be open and fair; (5) Guaranteeing at least a female member into villagers’ committee”. Province party committee and government defined the director of local government to take the responsibility for the election. Province department of civil affair and Women Federation constantly supervised the election whether was legal or had a female member in villagers committee.

Secondly, pay attention to training relative staff. Before the election, Province Civil Affairs held rural training course for town leader, assistants of Civil Affairs and staff of election committee classes in order to advance their quality and carry out the rule of having a female member in villagers committee. For example, on December 2001 Hunan Province of Civil Affair held the course in Changsha. Local officer of civil affairs attended the course. The total working materials about rural election was provided for them<sup>4</sup>. They visited the election in Shantang village, Pingtang town, Wangcheng county, Changsha. According to the official file titled Opinion About Guaranteeing Re-election of Certain Female Members into Villagers’ Committee, county women federation and civil affairs bureau arranged elected women to attend the course in order to learn the skill of village governance after the end of election. Women’s working performances were acknowledged timely and all women committees who have prominent working performance would be commended and awarded, creating good social ethos for women’s participation. For example, on June 2002 Province Women Federation and office of Poverty Alleviation and Development held the course for chairman of women delegation. The participants were woman who was under 40 years old, over middleclass, healthy, competitive, good performance<sup>5</sup>.

Thirdly, Province Women Federation took effective measures in every step. The official file titled Opinion About Guaranteeing Re-election of Certain

4- Bureau of Civil Affair, the introduction of rural women participating in villagers committee in Hunan Province.2002.

5- Hunanan Province Women Federation, the Report of rural women participation in Hunan, 2002.

Female Members into Villagers' Committee indicates, *"In the course of choosing villagers election committee government should positively recommend women accord with the rule. Whilst government accurately asks voter for nominating female member, positively encourages rural women dare to compete and take important responsibility of village governance without feudal view and bias in the step of nominating candidates directly. If there is not female in candidates, a woman who has got the most ticket should be added as a candidate. When villager election committee introduces candidate, it should introduce female candidate and shouldn't have discrimination and inequity. At the meantime of voting, government should tell and guide villager to use their democratic right correctly in order to elect these women who have good political ideas, are cultured and competitive, and are dedicated to women's causes into villagers committee"*. For example, Wangcheng county in Hunan asked voter to elect female member, let every voter know that they have to elect a female member. 100% village in Wangcheng county had female member in villagers committee due to Women Federation's good performance in the every step of election.

## **Women participation in Tanggu**

The character of women participation in Tanggu is the connection with program intervention. Between June 2003 and June 2004 bureau of grassroot polity and community in Ministry of Civil Affairs held a project which was funded by Ford Foundation for enhancing the proportion of rural women into villagers committee. The project chose Tanggu in Tanjin as pilot site. Its objection was that there was at least a female member in villagers committee and 20% female member in villager delegation in order to promote more women into villagers committee, rural gender equality and villager self-governance. The main action was the following: (1) Training cadre. Large rural cadres and women were trained in order to support the policy innovation. (2) Local government organized the election directly. Government of district, town and street directly guided the election. The rural secretary of party committer in every village operated it directly. (3) The function of Rule. The election was held strictly according to the Rule.

The project intervened in women participation mostly by the rule which guided the fifth session election of villagers committee in Tanggu. The rule strictly standardized every step of the fifth session election in Tanggu from election committee, voter, propaganda, nomination and formal election to the election of villager delegation and leader of villager group in order to follow the rule. On November and December 2003 the fifth election session of villagers committee was held in Tanggu. Women participation in Tanggu showed three characters.

Firstly, training cadre. From August 2003 to March 2004 rural cadre, especially street cadre, village cadre and the chairman of women delegation had been three times trained by the project in order to support the project and policy innovation.

Secondly, local government directly organized the election. After chose as pilot site the government of district, street and village in Tanggu guided various activities according the project rule from election propaganda, formal election to the observation and record for the total course of the election. For example, between August 2003 and February 2004 the government of district, town and street had held many times meeting in order to tell rural secretary of party committee and women director the meaning, request, rule, and arrangement plan of the innovation project. In the formal election site, rural secretary of party committee and women director in every village guided it themselves.

The third character was the function of Rule. The project prescribed the detailed rule in order to realize the objection of it. According to the Rule, the election should pay attention to women participation when election committee was organized. The Rule designed two kinds of way by which the members of election committee were chose, by villager conference, or by the meeting of villagers group. When the name list was made, there was at least one female member with duty or without duty in it. In formal election, villagers committee was asked to have to have a female member. According to the record of observer handbook for the election of villagers committee, the election in some villages succeeded firstly, in other villages secondly.

The election result had three kinds of status. (1) The proportion of female member went up. One was from a female member changed to two female members; another was from zero to one female member, namely there was not female member in the past, now one female member was added. (2) The proportion of female member had not changed. This was divided as three kinds. One was from zero to zero, namely there was not female member in villagers committee, now still there was not it. Another was from one to one, namely it continued to have a female member. Moreover, the number was from two to two, namely, it continued have two female members. (3) The proportion of female member came down. The number was from one to zero, namely, last time there was a female member, but this time there wasn't.

By the pursuit for the whole course of the fifth election session in Tanggu, the base line group have sum up that the power of policy guide is so great that the proportion of female member can be increased by the strict, guided and operative rule. They think that female member can be elected only abiding by the Rule strictly. The Ministry of Civil Affairs has found a series of effective methods that includes policy, regulation and operative method by the election in Tanggu. The base line group has made the new operative advise that include prepared work before election, the generation of primary candidates and formal candidates, formal election in order to improve the Rule. The objection of Ministry of Civil Affairs is that the policy can be extended to everywhere in China in order to promote women participation and standard the election of villagers committee. In the end it should enhance local democratic governance (Wang xiangxian, Wang xiaobo, Wang guangrong, 2004). •

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# **SOUTH AFRICA - PROJECTS WITH EMPHASIS ON ABUSE OF WOMEN (AND GIRLS)**

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Compiled by Impumelelo Team

**S**outh Africa has one of the highest levels of violence against women in the world.

A Parliamentary Committee was specifically set up in 1988 to oversee the Improvement of the Quality of Life and Status of Women. It has acted as an important focus with which to hold government accountable and demand effective legislation to combat violence against women. Its objective has been to monitor progress based on the government's commitment to the implementation of the provisions of the International Convention on the Elimination of all forms of discrimination against Women (CEDAW).

The National Crime Prevention Strategy remains the basic document of Government that considers means to combat crime through inter-departmental strategies. Among its priority areas is Crimes against Women and Children. The Domestic Violence Act of 1998 and the recently adopted Sexual Offences Act have been groundbreaking pieces of legislation and largely underpin the work of the Best Practice models identified and rewarded with prizes by Impumelelo. The Implementation of Maintenance Act 1998 also makes a difference to the lives of vulnerable women and children.

## **CASE STUDY No. 1**

### **ACCESS TO JUSTICE FOR WOMEN & CHILDREN, PIETERMARITZBURG**

In 2001 Impumelelo awarded Access to Justice for Women and Children its highest award and it remains a Best Practice Model in its innovative structure and unique methods that have been sustained and replicated.

#### **Project description**

Historically, institutions of criminal justice were unable to cope and address the many challenges they experienced. This was due to the lack of technical



and material resources; shortage of personnel; officials were not trained in the application of new legislation; no supportive infrastructure for the secondary trauma experienced by women and children who have been victims of violence and abuse; high case loads in courts, and a historical mistrust by communities for the police. These problems were more evident in rural areas, where there was a complete lack of services and support at the institutions of the criminal justice system.

In 1990, the staff of the School of Law at the University of Natal, Pietermaritzburg, formed the Centre for Criminal Justice (CCJ) to further Human Rights through the law, by engaging in academic research. In 1995/96, the CCJ conducted research on the Human Rights of women in rural areas. The results highlighted that women were frequently the victims of various forms of violence and were unable to exercise their fundamental right to access to justice and to enforce their rights. A pilot project was established in 1997 at the Plessislaer Police Station and due to its success it was expanded to other parts of the Midlands in KwaZulu -Natal.

The main focus of this Project is therefore to assist rural women and children with access to the criminal justice system with particular emphasis on rape and domestic violence. It mediates in cases where the parties do not wish to involve the criminal justice system. The programme also offers legal advice on social welfare issues, labour problems and crime.

Since its inception, twelve Community Outreach Centres have reached thousands of women. These centres are situated at police stations or magistrates' courts and each one employs two full time co-ordinators. The CCJ in Pietermaritzburg gives these women paralegal training after a rigorous selection process. Community members are involved in the recruitment of the local staff to serve in the Centres via community structures. This encourages ownership of the project. They are locally based so that they are accessible at all times and they are the key to the programme's success. Their principal work in their centres is to gather evidence and information from the victims of physical and sexual violence for use by the police. They help with cases involving child maintenance, childcare and domestic abuse and keep people informed about the progress of the cases, sometimes accompanying them to court. Monthly workshops for local women are run by the co-ordinators to educate them about human rights and the workings of the justice system. The paralegals also visit schools to make presentations to learners, as well as do home visits if necessary. They are 'leaders' in their communities, liaising with traditional leaders and government departments.

The paralegals always have recourse to the Project Director, Ms Winnie Kubayi, should they require further assistance. She is an outstanding leader who travels regularly around to the different Outreach Centres, aiming to visit them at least four times per year. She works from the University Legal Centre but has devised systems to monitor the work of the different centres.

## Leadership

Winnie Kubayi, a trained advocate, provides critical leadership in her coordinating role. She has ‘masterminded’ a most impressive project, sustained her innovative capacity and seeks new challenges all the time. Since the time Impumelelo made the Award, she has produced a number of handbooks on the areas covered by the project such as a Training Manual on Domestic Violence, Annual Reports on Cases from the Outreach Centres and fliers in English and Zulu on a number of topics. These are distributed at workshops. They include “Your right not to be the victim of domestic violence”, “Protection of children in need of care” and “Matrimonial Property in civil and customary marriages”.

The University Legal Centre provides extensive back up facilities. When asked, Winnie Kubayi says that, if she leaves there are paralegals who run the project in the same way. It must be fair comment that it would be difficult to find a replacement with her rare combination of qualifications, talent and dedication.

## Future prospects and replication

The project seems firmly grounded through the University where it has rent free premises, access to technology and research facilities. This also encourages funders who realise the Project has proper management. It has received two other awards. The Ashoka Award was granted to Winnie Kubayi and the Government Centre for Public Services Innovation Inaugural Award was given in 2002.

The Project has been replicated in Tanzania, funded by UNICEF. Kenya and Mozambique are also interested in replication. The Free State has potential funding from OXFAM to start the programme and Winnie Kubayi is willing to oversee its initiation.

But a weakness of the project is the lack of funding from the Department of Justice, says Kubayi. SAPS pay for electricity, water and transport costs at the Outreach Centres and Business against Crime funds building structures. As the university controls much of the project, funds for salaries are raised from development agencies.

The Outreach Centres have also initiated poverty alleviation schemes such as sewing school uniforms and vegetable gardens.

## Assessment

Winnie Kubayi claims that since its inception the messages of the Outreach Centres have reached thousands of women. Once again a weakness in the expansion of the Project is identified as a lack of money, ad hoc funding and poorly structured budget. A flaw identified in this project as well as in others is the too heavy reliance on volunteers who, while they may be strongly

committed, are also poverty stricken. The Outreach Centre would like to open Centres in Durban and Port Shepstone where money would be made available for training, but it is uncertain whether funding will be sustainable thereafter.

Outreach Centres organised by the Centre for Criminal Justice primarily address the issue of violence against women in terms of the Domestic Violence Act. It is a model available to be rolled out throughout South Africa's rural areas. The methodology is there but it is the Justice system that needs to provide the necessary funding and infrastructure to replicate them. This does not mean that the existence of Outreach Centres in the rural areas will automatically lead to a reduction of violence against women and girls, but it will ensure that they are aware of their rights.

## CASE STUDY No. 2

### **MOSAIC SUPPORT DESK PROJECT: WESTERN CAPE**

The Mosaic Support Desk Project was initiated and is run by the Mosaic Training Service and Healing Centre for Women in the Western Cape. It was established in 1996 to fill a gap (identified by Mosaic workers) in services provided by the Courts. The Centre identified that abused women were not getting adequate help in the Courts. These women often needed a range of support from crisis counselling to help in accessing an interdict, as well as assistance in filling out affidavits. The Court officials often did not have the necessary skills or patience to deal with these problems and, in many instances, there were no Xhosa speakers or printed protection orders available in that language. In a partnership with the Western Cape Regional Office of the Department of Justice, Mosaic set up a Court Support Project that now operates in 11 courts in the Western Cape. Mosaic set up a training scheme for volunteers to run this project who are themselves previously unemployed women from disadvantaged backgrounds. By 2000 Impumelelo judged it a Best Practice Model with a major role in assisting the proper implementation of the Domestic Violence Act.

#### **Project description**

Since its inception, the Mosaic Support Project has seen thousands of women, and a few men, each year. It started in Wynberg Court in 1999 and by 2003, it operated in 11 courts in the Western Cape. During 2003 it opened a Court Desk in the new Khayelitsha Court and in Phillipi, based in Cape Town's poorest townships.

Each Support Desk has a supervisor and a few volunteers all of whom have undergone a 70-hour training scheme devised by Mosaic, before they are assigned to a court. Volunteers are instructed in the relevant legislation, court procedures, and counselling techniques for their often-distraught clients. The volunteers provide crisis intervention counselling; assist with protection

orders forms and affidavits; provide education about abuse; complete the necessary forms for those who are illiterate or too traumatised; accompany applicants to court when requested and speed up the processing of protection orders. Monthly debriefing services are also provided to clerks of the domestic violence courts. This work is regularly monitored and supervised. At present there are 13 supervisors who co-ordinate the project at the different courts and liaise with Justice Department officials. There are 34 Court volunteers who receive stipends and regular supervision; they have been especially trained to understand the provisions of the Domestic Violence Act.

Rolene Miller, the Director of Mosaic, stressed that their aim is to train their workers to be caring and show respect and honesty. She stressed this as a core value that enables all their workers to look after their clients' needs. She stressed that although the Support Desk Project interfaces with the Courts, they are not integrated. They get the support of the Courts but no funding. The Court staff change often and the forms and booklets they provide are not user friendly so require the assistance of Mosaic workers. An average applicant could need a 'helping' session that may last one and a half hours. It is quite possible that without that support the applicant may not get her/his order.

## Sustainability and replication

Rolene Miller emphasised that a main problem facing the Mosaic Court Support Desk Project is that there is no Government or Provincial funding available. The Mosaic Training Service and Healing Centre for Women, an NGO, gets 18% of its funds through Social Services and the balance from donors. But this does not cover the Court Support Desk Project. They are seeking corporate funding but if unsuccessful, they would need to cut back their numbers. As the project is expensive to run and costs them R900, 000 per annum to run. Their supervisors are paid R1400 per month and the others, R100 per day.

She was unaware whether there are similar schemes in other parts of the country but doubted whether any other would have had the same rigorous training and supervision she had implemented. They did in fact train two groups sent from Namibia, paid for by the Namibian Government. They would like to have replicated the model in the Eastern Cape and Northern Cape and, while there were human resources available, there was no funding to undertake this.

## Leadership

Rolene Miller gives the project constant supervision and direction. From her presentation, it was clear to me that she is clearly the central figure in the organisation. She pointed out that there were structures in place that would facilitate the transfer of leadership to someone else in the event of her leaving. She has since left and her successor is as good.

## Assessment

The Mosaic Support Desk Project is highly valued by those it serves and by often over-worked court officials. The project has proved a vital adjunct to the smoother functioning of the Domestic Violence Act in the WP, providing an innovative contribution to the Criminal Justice system by assisting victims of domestic violence access their rights. It is a novel and necessary measure in the proper functioning of the legislation designed to address the abuse of women. The Project should become part of the court structures around the country and be funded by the Department of Justice.

### CASE STUDY No. 3

#### **CHILD WITNESS PROJECT, CAPE TOWN.**

This too is a court-based project, but the focus here is on children. South Africa has one of the highest rates of reported sexual abuses in the world. Research has found that children going to court as witnesses in sexual abuse cases are often frightened to the point of speechlessness by the formality and alien quality of the justice system. Consequently many sexual abuse cases do not make it to court, and many of those that do, are dismissed for lack of adequate evidence. As some 50% of the reported cases of the various forms of sexual abuse (about 25 000 cases) involve victims under the age of 18, the absence of a child-friendly court procedure may lead to gross miscarriages of justice. A further problem is South Africa's endemic backlog of cases waiting their turn for a hearing court. It may take up to five years for a case to be heard, which is problematic when the victim is a pre-pubescent youth. For this reason RAPCAN (Resources and Prevention of Child Abuse and Neglect), an NGO, decided to set this project up. Like the Women Support Desk Project, it started its operations at the Wynberg Court in Cape Town in 2002 and soon opened at the Khayelitsha Sexual Offences Court and then expanded to Parow/ Goodwood, Atlantis and Cape Town Courts in the Western Cape.

The core of its activities is to use various strategies to support and prepare children waiting to give evidence of a sexual offence perpetrated against them. Caregivers are trained to offer support and supervision is provided. RAPCAN set up the Project, which in 2003 was awarded by Impumelelo as a Best Practice Model that is innovative, necessary and making a difference.

#### Project description

The project addresses both the fact that children often do not make credible witnesses and helps to ameliorate the high levels of secondary victimisation experienced by children within the criminal justice system. It provides court

preparation, support, and a child friendly environment to child witnesses and their caregivers at 5 Sexual Offences Courts around Cape Town.

The setting of the Child Witness Project (CWP) at a new court involves negotiating for space in already crowded court buildings and then setting high standards for the quality of that space. From the colours used to paint the walls and the fabric used for curtains and furniture, to the quality of the food and entertainment provided. This area should be renovated and softened to make it child-friendly and should be cordoned off from the rest of the Court. This is necessary to avoid the child being traumatised again by going through the court ordeal. Other rooms are also set up which involve the running of the Project such as the witness waiting room, the intermediary room and the CCTV room.

Creating an environment conducive to fairness is just the first step. The project trains court supporters to prepare and sustain the victims (and their caregivers, who are often traumatised themselves). It is up to the child supporters to explain to the children in their own language what will happen in court and the roles of the various court officials.

At the moment there are 21 Court Supervisors who have completed 70 hours of mandatory training that has been formulated and supervised by RAPAN. This resembles the methodology of MOSAIC and, here too the Court Supporters are paid a stipend, this time of R157, and are selected from the community as caring people. They are assigned to specific courts and language needs are taken into account.

The principle of the Project is to prepare child victims for trial so the Court Supporters are not permitted to discuss details of the case with them. Because many children are from poor families and arrive hungry, tired and inadequately dressed, they are often fed and given warm clothing. The supporters therefore also prepare breakfast, lunch and snacks for the children and arrange access to toys and appropriate videos during the wait to give evidence. They also do role-play and modelling to introduce the child to the people and language of the Court. There is also a 'training session' for the child in what to expect in the trial itself. Without this type of training session, children are often unable to present their cases adequately.

Each court may see 5 to 10 children a day. Some children come in for consultation only or follow up. In February 2004, the figures for the Parow Court were 111 children, of whom 73 were new and 38 were follow ups.

Should follow up work be required, the Court Supervisor will refer the child to a Social Services social worker. One of the other positive effects of this Project is that it has the effect of sensitising the Court personnel to the needs of children.

## Leadership

The Project Manager, Tania Moodley, is a driving force in the working of the project. However, the project is a team effort and its maintenance and

replicability is not dependent on one person. A model has been drawn-up that allows for replication. A video presentation on their type of intervention programme gives everyone an opportunity to expand on the problems they encounter and the issue of child rape.

## Replication and sustainability

Funding is received from the Department of Justice, Social Services and the Department of Health. The cost of setting up the CWP at a new site is dependent on the site itself. For example, the quality of the space at the Atlantis Sexual Offences Court was good, so the CWP could just move in. In Cape Town, the space was old, cramped, dirty and not child-friendly. So before the CWP could move in it had to erect dry walls, paint and install carpets. On average therefore the cost of setting up at a new court is R15 000 per court. These costs include; basic office, kitchen furniture and equipment; a set of anatomically correct dolls, court room puppets, child-sized gowns and other garments worn by Court officials and therapeutic games; television and video machine; educational games, drawing paper, crayons etc; story and activity books; and a bed and bedding so that a tired child may rest.

This model works and is able to be rolled out wherever there is a need and funding is available. Similar schemes are in existence at the Teddy Bear Clinic in Johannesburg and the Bobby Bear Clinic in Durban. Tania Moodley did say it would be more difficult for the model to function in the rural areas because of distance.

Other measures have been introduced by RAPCAN so that a wider base of children will know about their rights and the existence of a project such as this. Disclosure boxes are left in schools after RAPCAN lectures; training sessions are given to medical students on this project. The Trauma Centre in Woodstock has now established an outreach centre in Retreat where they can counsel children. By publicising their work, government is enabled to better respond to the growing demand for successful prosecutions of sexual offences.

## Assessment

With South Africa on record as having the largest number of rapes in the world, a vast number of these children, such a project is a vital part of the criminal justice system and should be an intrinsic part of the work of the entire criminal justice system.

Tania Moodley spoke of the increase in the abuse of children. While the reasons are many and complex, she stressed two points: one is the patriarchal nature of our society and the other, the dramatic poverty levels of overcrowding and single parent households. Furthermore, media attention including baby rape cases, has given the issue more prominence.

The Child Justice Bill, discussed above, will make the Government responsible for children. It will become mandatory for children to have an intermediary in such cases. At the moment it is not even automatic that every child testifies in camera.

## CASE STUDY No. 4

### **EFFICIENT MANAGEMENT OF SEXUAL OFFENCES CASES**

This is another anti-rape Program, but its focus is national and it is managed by the National Prosecuting Agency (NPA) of the Department of Justice (the Scorpions). Its long-term aims are to find a solution to combating rape while its short-term aims are to help the victims of rape and to convict perpetrators.

#### **Project Description**

It is a two-pronged project aimed at a holistic approach in ridding the nation of the abuse of women and children. This integrated approach resulted from a Cabinet instruction to the NPA to devise an Anti Rape Strategy. It recognizes that the joint resources of Social Services, the South African Police Services, Health and Welfare and Justice (acting through the National Prosecuting Authority) are required to tackle this vast problem.

One part of this Project seeks to assist victims and deal with perpetrators and is divided into 10 sub-projects. These are 3 Thuthuzela Care Centres (in Nelspruit, Kimberley, Natalspruit Hospital -East Rand) and 40 specialised Sexual Offences Courts in 7 regions. These are found scattered around the country in Nelspruit, Umtata, Umlazi, Vosloorus and Evander, George, and Thohoyandou. These projects are designed to recognise the difficulty in prosecuting sexual offences and the traumas suffered by the victims - not unlike that already detailed in the Child Justice Project. The specialised court emphasises the different and special features that are required (from the requirements in a normal court).

The Thuthuzela Care Centres are based in a hospital environment as a one-stop centre for a victim of abuse. Each centre is manned by a project manager and provides police services and health care, counselling and legal services under one roof. The Police Station nearest to the centre has properly trained investigators who are on call on a 24-hours basis. With the centre being in a hospital environment, access to doctors or qualified nurses is easy and the doctor examines the victim, completes the necessary forms and submits them as part of the documentation to be used for the rape case. The investigator forwards the statement to a prosecutor who ensures that all the necessary details appear on the statement in order for him/her to put up a formidable



case in court. The victim is given resources to have a bath and fresh clothing. A counselling session is organised for the victim before s/he goes home.

The Sexual Offences Courts are specialised courts designed to streamline the process of handling and prosecuting cases of sexual abuse. It transforms a normal court into a suitable facility able to offer a private room for the victim in which s/he testifies via a video camera that broadcasts to the main courtroom. It also provides security to the victim who is protected from direct contact with the perpetrator in court. The court also has a separate waiting room for children and a separate one for adults. The waiting rooms for children typify a normal room for a child, with drawings and bright colours, and are meant to offer a refreshing environment for the young victims so that they don't feel threatened by the court process. The sexual offences court facility is also equipped with a fully-fledged kitchen that is run by a local Non-Governmental Organisation, which provides food to the children whilst waiting their court sessions.

In both the Child Witness Project and in this Project, statistics prove that interventions of this nature lead to a higher rate of rape convictions. Before the initiation of the project, conviction rates were similar to the national average of 7% for all crimes. The new courts have greatly increased the effectiveness of prosecuting sexual offenders. In Umtata, for example, guilty verdicts are recorded in 70% of cases, while Thohoyandou averages 62%.

The second part of the project is long term. It is for the Sexual Offences and Community Affairs Unit (SOCA) to study the root causes and pattern of the incidence of rape throughout the country, so as to allocate resources and design appropriate counter measures.

## Sustainability and replication

This is a government inspired initiative, so it is surprising that its maintenance rests on private funding and NGO support such as the Rape Crisis Centre. Vodacom has provided R5m and other funding is available from the Kellogg Foundation and USAID. The Thuthuzela Care Centres and specialised Courts provide a much needed strategy to tackle sexual and abuse cases at national level and this should enable them to become more widely replicated nation wide.

## Assessment

This is the fourth project in the group dealing with the abuse of women and girls. As its focus is national and it has been initiated by national government, it provides an opportunity for funding to now be made available principally through the public sector to rollout special courts and one-stop centres throughout the country. These Best Practice models should be properly funded and their specialised servers properly paid rather than depend on stipends. A proper study facilitated by Sexual Offences Community Affairs Unit (SOCA)

should draw together the work of relevant University Departments such as the Centre for Criminal Justice in Pietermaritzburg and Cape Town and NGO's such as RAPCAN, MOSAIC and others. Their research and the models outlined in this Case Study have proven to be innovative and effective, and should play a leading role in a nation wide intervention into sexual offences against women and children.

The South African Law Reform Commission has drawn up a Sexual Offences Bill. It proposes that all types of sexual penetration should be considered unlawful when they occur under coercive circumstances, including the use of force, threats and the abuse of power. It should come up for consideration before the Justice Portfolio Committee in Parliament in the session of 2004 (SA Yearbook, 2003/4).

Carol Bower of RAPCAN expressed reservations about this Bill, as it stands at present. She considers it to 'have been watered down'. She maintains that its inter-sectoral framework has been removed. There is also a further objection to the absence of prophylactic treatment for children who have been sexually abused and could become HIV positive as a result. However, this Bill is a long way from promulgation and it is possible that with pressure from civil society, the final legislation will eventually be in line with national requirements dealing with sexual offences. •

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# BRAZIL - CASA ROSA MULHER – REFERENCE CENTER FOR WOMEN AT RISK FROM VIOLENCE

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Marco Antonio Carvalho Teixeira<sup>1</sup>

With 253,059 inhabitants, Rio Branco is the capital of the state of Acre, located in Brazil's North Region, in the so-called legal Amazon. The city's social and economic indicators have made affirming the basic rights of citizenship a challenge, especially considering public policies focusing on child and teenage issues with direct impact on women. The female population represents 51.30% of local inhabitants. (Census 2000, IBGE).

The importance of public action in the area of childhood and adolescence in Rio Branco is evident when considering that the 0-19 year age bracket accounts for 46.60% of the total of inhabitants, of which some 52.00% are female. Also, 23.60% of women become pregnant before the age of 20. As for schooling, only 46.00% of children are enrolled in primary education. The illiteracy rate is of 11.72% (22.630 of 193.088), considering people over the age of 10 who have not been to school and cannot read or write (Census 2000, IBGE).

Some data on the local job market also highlights the problematic social panorama. Out of an Economically Active Population (EAP) of 107.686 workers, 45.649 (42.39%) are women. Women are paid, on average, 35% less than men in terms of salary. The unemployment level is of 14.72% of the EAP, 50.97% of which are women. Lastly, there is a significant informal job market which accounts for 33.20% of the EAP, which in concrete terms means the existence of workers without basic labor rights and who do not contribute to social welfare (Census 2000, IBGE).

2- For more detailed information on this experience see COSTA, Ana Alice. *A Casa Rosa Mulher: uma estrela na escuridão*. In *20 Experiências de Gestão Pública e Cidadania: Ciclo de premiação de 1996*. CLEMENTE, Roberta; SPINK, Peter. São Paulo: Programa Gestão Pública e Cidadania, 1996.

## History

A series of diagnostics carried out by the local health authority, the Federal University of Acre (UFAC) and, also, by a Parliamentary Enquiry Commission (CPI), requested by the Municipal Council to investigate problems relating to child prostitution in Rio Branco, brought to the surface the worsening conditions of physical and sexual violence suffered by women in the city of Rio Branco, and became the driving force behind the demand for the urgent formulation of a public policy for social inclusion which faced these issues at a municipal level<sup>2</sup>.

Data gathered during an eight-year period (1985 to 1993) of attendance at the gynecology unit of the local public hospital showed a total of 9.143 births and 309 abortions and D&C (Dilation and Curettage) involving girls between 10 and 17 years of age, highlighting not only the issue of teenage pregnancy but also the need for an educational campaign on issues of sexuality and the problems and risks of teenage pregnancy.

Research developed by UFAC in 1992 identified that in that year alone, in the capital, there were around three thousand prostitutes in the 10-16 year age group, most of which were living outside a family structure and had left the countryside in search of better living conditions in Rio Branco, as a direct consequence of the economic crisis which hit communities depending on extractivist activities.

In 1993, a CPI carried out by the Municipal Council to investigate local child prostitution concluded, after surveying 120 girls, that these girls had no idea whatsoever of the health risks which stem from sexual activity without any sort of information or protection. The CPI also revealed a shocking fact: the official police registry of the disappearance of around 1,150 female teenagers filed at the Police Office for Protection to Children and Teenagers of Rio Branco during a period of less than ten years. A large number of these teens considered missing were, in fact, cases where these girls were “drafted” into prostitution at mining colonies in the state of Rondônia.

Based on this tragic situation, within the same year of 1993 the Women’s Movement pressured the mayor at the time, Jorge Viana, for his office to mobilize civil society to create a public policy which could face this issue and also become a tool for social inclusion, bringing these girls new possibilities for survival.

This was the start of the budding Casa Rosa Mulher Program, built gradually with the following steps: in 1993, after demands made by the Women’s Movement, the municipal government sent the Ministry of Social Welfare a request for support to implement the Program for Family Re-Integration. During that same year, public meetings and seminars were held with participation by human rights organizations, besides the Women’s Movement, aiming at collective construction of an inter-sector and multi-disciplinary public policy focused specifically on facing issues relating to physical and sexual violence against women.

Within this context, the Casa Rosa Mulher Program was born officially in May 1994, by demand of a number of social organizations and the Women’s Movement of Acre and with decisive City Hall support. This initiative represented the first public action with broad, multi-disciplinary and inter-sector characteristics that focused specifically on women’s rights, with the exception of the already-existing women’s services and Women’s Police Office, which had a limited reach.

## Activities at Casa Rosa Mulher

From the start, the Casa Rosa Mulher dedicated its service to Acre women in situations of physical or sexual violence, offering legal, social and psychological support, health services and educational art activities. For this purpose it counts on a multi-disciplinary team made up of lawyers, social workers, psychologists, nurses, doctors and teachers in the art education area.

The public they support belongs to the following groups: prostitutes; women in precarious socioeconomic conditions; and teenagers. Everyone who comes to the Casa Rosa Mulher receives individual or group attendance. The Program also carries out home visits, as well as developing a number of public campaigns by targeting neighborhoods and schools with the aim of raising public awareness about sexually transmitted disease (STD) and AIDS.

One of the important consequences of this work is that many women who still work as sex professionals became multiplier agents for the prevention programs. This was crucial as they have access to places where the Program team cannot penetrate, for safety reasons among others. In some situations, access to areas of prostitution became possible for the team due to mediation by sex professionals who work in that area and have participated in activities offered by the Casa Rosa Mulher.

This strategy of seeking out the target public, instead of waiting for them, helped Casa Rosa Mulher gain legitimacy and recognition as a space where this segment can find not only information on their rights and attendance for health related issues, but also, in one way or another, the possibility for reconstructing their self-esteem by finding a non-discriminatory service, as well as emotional, social and legal support.

At the end of 1996, after two years of existence and also the last year in office for Jorge Viana, the great supporter of the experience within the local administration, Casa Rosa Mulher broadened its horizons by means of a partnership with the Ministry of Culture. With this partnership, the Program received Federal Government resources to build a cultural space which became known as the Casa Rosa Mulher Nucleus. Within this space, the Program developed cultural activities which included drama groups and capoeira and dance classes, besides professional training activities with dressmaking, needlework and hairdressing workshops<sup>3</sup>.

With the end of Jorge Vianna's mandate, despite the election of an opposing party for two consecutive mandates (1997-2000 and 2001-2004), the social legitimacy this public action had reached was sufficient for work to remain uninterrupted by political issues.

During the two administrations which followed Jorge Viana's office, activities were not expanded beyond the existing actions, concentrating mainly on organizing professional training courses, maintaining without any significant change the existing attendance within the legal, social and health spheres. The awareness campaigns were still carried out sporadically.

3- Updated information until May 2007 was obtained by means of a questionnaire answered by Coordinator Filomena Emilia Gonçalves da Silva Ramos, for the 10-year commemorative publication of the Public Management and Citizenship Program.

With the 2004 municipal election the political group which, together with the Women's Movement, created the Casa Rosa Mulher, returned to office. This marked a renewal of a more dynamic process as the Program became once again a governmental priority, allowing the expansion of activities and the diversification of the reach of this public policy.

As part of this strategy, in 2005 the Program was restructured and became the Reference Center for Women at Risk from Violence. This was due to the need to conform to Standardizing Regulations of the Reference Center for Women's Attendance of the Special Department for Women's Policies (SPM) of the President of the Republic, and in this way become entitled to Federal Government funding.

Another important change was to move Casa Rosa Mulher under the umbrella of the Municipal Women's Department of Rio Branco, giving greater breadth to the Program's inter-sector reach. Within the same year, through the partnership with the SPM of the President of the Republic, it was possible to refurbish and enlarge the Program headquarters, a deciding factor for extending professional training activities. An important point here is the straitening of ties with the state government helped generate joint actions to strengthen the Reference Center.

In this manner, the rights defense activities carried out by Casa Rosa Mulher became more dynamic due to joint actions with new political actors such as: the women's police offices, health centers, the state hospital and the Public Ministry. The police offices send cases needing specialized attention to the Casa Rosa Mulher so that women who are victims of violence can be given support and information. The health clinics and state hospital provide health care. The Public Ministry sets Justice in motion informing the pertinent authorities so as to define the most adequate public policies and open the necessary legal procedures. Cases of violence representing death threats are sent on to the Mãe da Mata Shelter House, created specifically by the State Department of Citizenship and Social Assistance (SECIAS) for situations of this nature.

The activities carried out by the Reference Center were diversified and began to involve all areas of Government. These include: welcoming, advice and support, by means of specialized attendance and access to health services, social assistance, legal support, safety, education, income generation and fair trade economy.

Data produced by the Reference Center Casa Rosa Mulher team reveals that during 2005 and 2006 the Center attended 2,188 women (1,498 in 2005 and 995 in 2006), with 142 in need of specialized legal or health support. The other women sought out the Center in search of courses, as they are mostly unemployed mothers with low levels of education. In 2006, the team carried out 518 multi-disciplinary attendances for women who were in violent situations; 22 courses were carried out, training 438 women for work and handing out 84 professional equipment kits.

The social legitimacy of this initiative can be seen in several ways. One is the fact that the Program resisted two changes of government with absolutely distinct ideological postures. The other is in its potential for replication, as similar situations can be found in most of Brazil, both in large and small municipalities. The Casa Rosa Mulher Reference Center was replicated in whole in the municipality of Brasília (AC) by initiative of the local government and with state Government support, named the Reference Center for Women in Situations of Violence in the High Acre. The Casa Rosa Mulher team gave all necessary support for this process and to date still carries out sporadic visits and makes informative material available so that the Brasília experience can succeed.

Another manner of verifying the public importance of the Casa Rosa Mulher is by means of awards received by the initiative. In 1996, due to its high level of innovation, the experience was chosen as one of the highlights among the 20 finalists by the Public Management and Citizenship Program<sup>4</sup>. In 2005, the experience won a UN Millennium Development Goals (MDG) Award for contributing towards gender equality and the autonomy of Brazilian women<sup>5</sup>.

It is also important to point out the importance of making space for social participation in the activities and in how the Reference Center is managed. Society participation takes place by means of the Women's Rights Council and also through meetings with representatives of women's organized movements. The Casa Rosa Mulher administrators are also represented in participatory budgeting debates, where representatives from local society gather to define the municipal government priorities for the following year.

The longevity of an experience of this nature, which has just completed 13 years of active work, is due not only to the fact that the problem still persists, which alone would justify the Program's existence, but also, above all, because of the legitimacy it has earned and the success with which it has carried out activities in defense of women's rights, especially those who are directly exposed to risks stemming from a precarious social environment, often marked by several forms of violence.

## Management and Partnerships of the Reference Center Casa Rosa Mulher

The Reference Center has a management team which includes both the Municipal Women's Coordinator, who represents the sector's organized movements, and the Casa Rosa Mulher Coordinator, a job that belongs to the municipal governmental structure. The management team also includes representatives from a number of Municipal Departments and organizations involved in the experience. Together they construct the Reference Center's activities.

Each Municipal Department is represented in activities pertinent to its area. For instance, the Municipal Department of Social Assistance is directly

4- A joint initiative of the Getulio Vargas Foundation of São Paulo and the Ford Foundation, with support from the National Economic and Social Development Bank (BNDES), with the aim of identifying and disseminating innovative initiatives in sub-national government. See <<http://inovando.fgvsp.br>>

5- An initiative of the Federal Government, the United Nations Development Program (UNDP) and the National Movement for Citizenship and Solidarity. See <<http://www.odmbrasil.org.br>>

involved in developing professional training courses and in liaising with social programs. The Municipal Office of Work and Fair Trade Economy supports professional training and entrepreneurial activities. The Municipal Department of Health attends women in emergency situations. All these different activities are planned in an inter-sector manner and discussed with the several segments represented in the Casa Rosa Mulher management structure.

The Reference Center's resources come from the municipal budget and from federal government funding by means of the SPM (Special Department for Women's Policies). It is important to point out the main factors that contribute towards efficient management of the Casa Rosa Mulher: support from the women's movement and commitment towards the initiative by the municipal public administrators, besides constant team training, with external advisors, and the women's group sessions which intensify and qualify the work carried out.

## Final Considerations

The activities carried out by the Reference Center Casa Rosa Mulher show the success of a public policy built in conjunction with the social movements and which has functioned horizontally from the start. In this case, what calls our attention is the consensus around the need to affirm the rights of women who are often excluded by society itself and even neglected as citizens by large segments of their local society.

It is also important to stress that some of the sex professionals attended by the Casa Rosa Mulher became actors in social change by intervening directly so that other prostitutes could come in contact with the Program, receiving care and help in the protection of their rights and seeking other possibilities of social insertion.

It is also worth noting the success achieved by what is known currently as the Reference Center in terms of establishing and expanding partnerships. These links serve not only to broaden the reach of the Program's work, but also to bring a higher level of public legitimacy to its actions, a key aspect for the continuity of a public action which deals with issues that are open to very complex interpretations by the several groups existing within the local society.

It is worthwhile remembering that, initially, the Casa Rosa Mulher counted only on sporadic support from the federal government in setting up its work structure. However, the social effects of the activities developed were so important that the experience survived and was consolidated even when faced with an abrupt change in political direction in the Rio Branco government in the year of 1996, continuing until 2004.

The current phase has partners within the three levels of government besides public recognition beyond the borders of the state of Acre. The repercussion and dissemination of the activities developed by the Casa Rosa



Mulher can serve as inspiration so that public administrators from different levels of power can develop crucial public policies based on the respect for human rights, in particular the affirmation of women's rights. •

# **CHAPTER II - Indigenous People's Rights**

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# CHILE- “AS FAR AS MY EYES CAN SEE”: THE LAFKENCHE EXPERIENCE IN THE CONSTRUCTION OF AN INDIGENOUS TERRITORIAL IDENTITY

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Leandro Sepúlveda V.

## 1. Executive Summary

The Lafkenche Territorial Identity is an indigenous association that gathers a set of communities, organizations and territorial players that inhabit the lafkenmapu territory on the mapuche sea border between the Arauco Gulf and Chiloé Island, at the Center/South of Chile.

Since the beginning of the 1990s, this Group has carried out a reconstruction of the territorial identity of the lafkenche mapuche people<sup>1</sup>, supporting community claims, promoting and participating in organizational meetings as well as channeling information and generating articulation between the communities of diverse indigenous locations on the coast of regions VIII, IX and X. Likewise, the Group plays an active role in the Coordination of Mapuche Territorial Identities, favoring unitary work initiatives and promoting solidary actions against cases of abuse and violations of indigenous people’s human rights.

Over the past few years, this organization has carried out a systematic job of dialogue and negotiation with diverse governmental entities aimed at achieving legal recognition of the ancestral rights of indigenous peoples over the sea border territory in which they live. As a consequence of this work, there is currently an unprecedented bill in Senate proceedings that “creates the coastal space for native peoples”, recognizing its common law use by the indigenous communities<sup>2</sup>.

This experience - the impact of the organization on governmental entities and representatives and the active participation of the communities that sustain it in discussion a bill that recognizes ancestral rights – represents a particular case of citizen building, a social or cultural citizenship generated by an indigenous organization and sustained by a strategy of links with representatives from state entities and civil society players.

1- Mapuche (Mapu = land, territory; Che = people, human being) is the main ethnic group in Chile (87% of the indigenous people in 2002 Census). They were the inhabitants at the center/south of Chile territory since before the Spanish occupation, stopping the expansion of Inka people. They defeated the Spanish conquerors and agreed a treaty of peace with the Spanish crown in 1604, living in the land called “The Border”. In 1881 Chilean army occupied violently the Mapuche land and forced them to live in a small piece of the percentage of land that they owned, fact that led to the ending of Mapuche autonomy. Different groups make up Mapuche people: Lafkenche (people from the sea); Pehuenche (who live by the harvest of “Pehuen”, Monkey Puzzle fruit); and Huilliche (people from the south), among others.

2- Law no. 20.249, that creates the “Maritime Space for Indigenous People”, it was publicized on February 18th, 2008. This law creates the legal entity that recognize the rights of indigenous coastal communities over the maritime space they have made use of within centuries, conditioning their culture and social order.

## 2. Background and Description of the Initiative

### Context

The Lafkenche Territorial Identity is an indigenous association that gathers a set of communities, organizations and mapuche territorial players from the Lafkenmapu sea border between the country's VIII and X regions<sup>3</sup>.

More than a traditional intermediate organization (that is, set in a certain institutional order that defines, with relative precision, its members, representation positions and an explanation of the tasks they perform), this Group takes on the characteristics of a movement whose main objective is to reconstruct the mapuche territory, organize their current demands and recover the ancestral identity of their people<sup>4</sup>.

The Group is comprised of a broad gathering of territory directors and leaders, linked by a principle of ethnic identity built over a long process that includes a series of territorial conflicts with private and/or political interests developed by government bodies. This experience, especially significant over the past 16 years, creates a basis for mutual trust and recognition among previously dispersed players, geared towards the preservation and promotion of their communities' rights<sup>5</sup>.

The origin of this experience dates back to the beginning of the 1990s. Its immediate antecedent is found in the Association of Pu Lafkenche Indigenous Communities in south Tirúa, which developed a work of social and productive organization and defense of sea border heritage through the promulgation of the Fishing Law of 1991<sup>6</sup>. Besides that, it is necessary to underscore the mobilization that indigenous communities have carried out since 1996 in the Puerto Saavedra and Teodoro Schmidt area by opposing the plans for the original layout of the coastal highway. This initiative puts ancestral territories of Lake Budi communities to the south in danger, affecting the cultural integrity and environmental equilibrium in this area<sup>7</sup>.

These and other actions have resulted in a mutual recognition and understanding process of existing mapuche territorial organizations and communities along the coast between Arauco Gulf and Chiloé. Originally catalyzed by the Fishing Law, which did not consider the existence of mapuche sea workers nor did it recognize the presence of communities that have historically inhabited the area, the Lafkenche Territorial Identity Group has driven an "ancestral territory reconstruction" process, promoting the debate on the situation of lafkenche communities and encouraging proposals that permit the recognition of the cultural rights of the native peoples.

As a result of this initiative, the group, not without difficulties and conflicts, has been able to establish mechanisms to dialogue with government authorities and to broaden the links of trust and support with civil society organizations in the mapuche. The major achievement in this sense was the elaboration of

3- The long and thin geography of the country, allows the dictatorship to rename Chilean regions in 1978, naming them by consecutive numbers from north to south. This numerical division was modified in 2007 adding two new regions and eliminating numbers.

4- The lafkenche is defined as a people who belong to the sea, "who in their essence, understand that the sea is part of their being, their cosmo vision"...a link and belonging that delivers "the entire historical-spiritual sense of their identity".

5- In the strict sense, there is no Board for this organization. The movement recognizes the work done by some directors such as Adolfo Millabur, mayor of Tirúa, as part of this identity, but besides that, the Lafkenche Identity corresponds to a group of several community leaders that represents the identity without the definition of positions as found in traditional organizations.

The privileged role of territory werkenes (messenger) reflects a horizontal mode of doing things in this organization.

6- For a review of this experience, see Toledo,

V.; "Esto también va haciendo autonomía, la estrategia territorial de las comunidades

Lafkenches de Tirúa" In: Espacios Locales y Desarrollo de Ciudadanía. 30

invasiones para construir democracia. INAP / Programa Ciudadanía y Gestión Local. Santiago de Chile 2001.

a bill that legitimizes the common law right of the native inhabitants of these territories to use the sea border.

This legal body – approved by government representatives, congressmen and civil society entity professionals – represents the sustained effort by directors in open debate with community organizations in order to achieve juridical recognition of the claim for the sea border as the historical heritage of the lafkenche people.

As a result, the Lafkenche Identity has currently achieved a unique profile in the indigenous rights movement in the country and it is recognized as one of the main social references for mapuche identity.

The Group is comprised of directors and indigenous organizations in the areas of Arauco, Lebu, Huentelolén, Tirúa, Puerto Saavedra (and most especially the area surrounding Lake Budi), Toltén, Teodoro Schmidt, and Maiquillahue (to the south of Mehuín). The group's basic principle is founded on the recognition of a common lafkenche territory, a meeting and development point for the cultural identity of all the communities<sup>8</sup>.

The Group recognizes the existence of 14 territories along the lafkenche identity zone, totaling 300 indigenous communities and more than 7000 families between Arauco Gulf and Maiquillahue, at the mouth of the Lingue River. At present, there is an outreach program with the indigenous communities of Chiloé and Palena based on the fact that “over the years there has been a displacement, often obligatory, of lafkenche families to the south in search of better living conditions”<sup>9</sup>. The lafkenche territory is thus a layout that is still in the construction process<sup>10</sup>, an issue that grants a unique character to its evaluation as a citizen initiative.

The Lafkenche Identity currently counts on economic support from Norwegian Popular Aid, resources that permit renting a house in the city of Temuco, the financing of secretary functions and a budget for basic travel expenses for some of its directors.

Besides the above, over the years, non-remunerated support has been obtained from a group of professionals from diverse areas who collaborate in some of the organization's main tasks. Since March 2006, three professionals from the Country Service Program<sup>11</sup> have worked directly as the Group's technical consultants, carrying out professional activities previously agreed upon by the Program's Regional Directorate.

Although there are several scopes in which it would be interesting to review the Lafkenche Territorial Identity experience, we will fundamentally focus on the management, discussion and agreement process for the bill that creates the coastal area for native peoples.

This initiative represents an unprecedented participation model for indigenous directors and communities in the discussion of a legal proposal that recognizes ancestral cultural rights. We maintain that this experience is a notable expression of the exercising of social or cultural citizenship that exceeding the limits of rigid and formal institutional models, and regardless of the process'

7- The basis for this mobilization is summarized in the following declaration: “The Mapuche Lafkenche communities, owners of a culture that places special emphasis on caring for and safeguarding the environmental heritage of its territories, justifiably fear that the construction and operation of this highway will cause irreparable damage to the biological and cultural biodiversity that exists in its lands, since it is well-documented that the routes to access new territories can seriously deteriorate regional ecosystems and cause great change in soil use. It is known that this highway is a route for forestry, fishing and tourism companies, which will only cause more poverty to the mapuche people, considering that the roads do not necessarily imply improved quality of life for the inhabitants of the interconnected territories. A road brings progress only if it is projected around an appropriate policy of development for the reality of the area of impact. Most worrisome is the situation of Lake Budi, the only SALT water lake in South America, a place declared priority II in the National System of Protected Areas and that gathers 180 species of flora and 156 of fauna, some of which are vulnerable and others endangered” in Coordination of Organizations and Territorial Identities; “Report on the Situation of Human Rights for the Mapuche People in Chile”. En Meli Wixan Mapu <<http://meli.mapuches.org/>>

8- There are no censuses that differentiate the lafkenche identity with regard to other mapuche identities.

The relatively recent identity movement uses a historical experience of territorial differentiation and the development of cultural particularities until our days. This is how the current mayor of Tirúa, Adolfo Millabur, expresses it: "...this is a culture that obeys territorial identities. This term is modern, we created it. My parents, my uncles, my grandparents simply call themselves according to where we live. I am lafkenche, man of the coast, of the land and of the sea. We have a spiritual and philosophical relationship with the sea". (Punto Final magazine, October 29, 1999).

9- Interview with organization directors; August 2006.

10- As can be seen, since the beginning of 2006, the Group counts on the support of three professionals from the Country Service Program. One is a geographer and is working on the cartography of the lafkenche territory.

11- Country Service is a government funded program, run by a private foundation. This program allows young professionals to serve for one or two years in rural poor areas that have asked to Country Service for their work.

12- This emphasis is recognized by Toledo when reviewing the original experience of the Tirúa lafkenche communities. See Toledo, V. Op cit.

final result, opens a range of democratic alternatives thus far lamentably absent from the State's relations with native peoples.

## Program Description

The Lafkenche Territorial Identity Group represents an experience whose main concern is the recognition of the economic, social and cultural rights of lafkenche communities that inhabit the sea border in regions VIII to X.

As mentioned, it stemmed from the mobilization of diverse organizations in face of the modernizing actions verified over the past decades (fishing law, construction of the coastal highway, implementation of specific State policies geared towards indigenous peoples) and which have endangered the territorial integrity and the sources of economic maintenance of many of the lafkenche communities.

The initiative is based on the work by a broad group of territorial directors from diverse communities who have assumed the task to articulate the movement based on cultural recognition and the claim for ancestral rights of the coastal mapuche people.

Preceded by the exchange links carried out between some of the founding organizations (Pu Lafkenche de Tirúa Sur, Newen Pu Lafkenche de Carahue, among others), the Group's experience has developed from territorial trawünes or meetings, aimed at the collective construction of a proposal for the territory and the rights over which these communities that comprise the mapuche lafkenche identity have. In a much broader sense, the experience is based on the reconstruction of an ethnic territory, understood as an area with access to material and symbolic resources, founded on the recognition of a collectively constructed identity<sup>12</sup>.

Together with the above, the Group has maintained links with diverse government and civil society entities with the objective of strengthening the recognition of lafkenche people's rights and the promotion of the recognition of indigenous rights. Along these lines, the elaboration of the "law that creates a coastal area for native peoples" is the main milestone developed by this organization.

These two actions – strengthening of identity and autonomy on one hand, and the constant search for the legal recognition of indigenous people's rights on the other, is the main characteristic that defines the unique experience documented herein. Different from movements that emphasize the free determination of native peoples, in the Lafkenche Territorial Identity strategy, a willingness prevails to go through institutional channels in the search for citizenship spaces for the mapuche lafkenche people.

Finally, it is also important to point out that over recent years the Lafkenche Territorial Identity has expanded its links with indigenous and

non-indigenous organizations. Several of its directs have participated in international meetings with rights' groups from native peoples of Latin America, and the Group has actively participated in the Coordination of Territorial Identities of the mapuche people.

In this context, regardless of the specific claim for territorial rights by the coastal mapuche people, the Group maintains a position of solidarity in face of the current conflicts involving community land claims. Therefore, the Lafkenche Identity house is an open space where directors and representatives from diverse mapuche people organizations meet.

Based on this, it is possible to say that in general, the main areas of work that have encouraged the Lafkenche Territorial Identity Group work over these years can be summarized as:

1. The development of initiatives aimed at strengthening the territorial identity of the mapuche lafkenche people, promoting the discussion and defense of ancestral rights on the sea border of the communities and their organizations.
2. The generation of dialogues and citizenship agreements, aimed at defining a framework for the legal recognition of indigenous people who inhabit the sea border, preserving their economic-social rights, as well as respect for their traditions and cultural identity.
3. Besides the above, the Group has given priority to the development of unitary action with the rest of the mapuche people organizations and the other native peoples in Chile as well as abroad, with the objective of achieving greater levels of equality and recognition of indigenous identities.

## Results and achievements

The experience's main achievements have been:

1. The articulation of a series of organizations and indigenous communities in the mapuche lafkenche territory, facilitating a process to reinforce their ethnic identity.
2. Recognition and opening of public and private entities to the discussion on this people's territorial rights.
3. The generation of a legal framework that recognizes the native people's right over the coastal area, and
4. The legitimization of the Lafkenche Territorial Identity Group as a representative reference of the mapuche lafkenche people, ratified by the organization's participation in the coordination of other representative initiatives for the mapuche people and the recognition of their directors on the part of the main social and governmental organizations, permitting the development of joint activities.



### 3. Operating Mechanisms

#### Concept and operation

In order to understand the Lafkenche Territorial Identity Group operating mechanism, it is necessary to differentiate two fundamental moments of the work carried out over recent years. First, the process that led to the elaboration of the bill on the native people's coastal area, and second, the current stage, which corresponds to a consolidation and construction phase for a collective strategy by the lafkenche organization, which should be ratified in a Group Congress projected for the first days of September 2006.

The emphasis of this section will be to review the elaboration process for the bill for the lafkenche people, trying to identify the main concepts that feed the initiative recognized as an exercise in social-cultural construction of citizenship.

As mentioned, the Lafkenche Territorial Identity Group, in its search for recognition of the territorial rights of the coastal mapuche people, has developed a strategy that considers three specific focal points:

1. The drive for territorial actions and for strengthening community identity;
2. the development of spaces for dialogue with political authorities that lead to the generation of recognition for indigenous rights, and
3. support on experts and other solidary social players with the principle that sustains the Group.

This perspective has fed a work model that has been gathered over several years, permitting the consolidation of the Group (the core of directors and leaders who recognize the lafkenche identity) as a space for intermediation that links the State and indigenous communities to achieve a milestone of mutual recognition.

#### The strategy for recognizing the lafkenche people.

The promulgation of the fishing and aquiculture law of 1991 represents a key moment for the development of the lafkenche territorial organization as underscored in one of the organization's dissemination documents: *"after a series of reflections at the community and director level, we realized that the implementation of this law introduces a series of negative consequences for our communities: it does not recognize the indigenous organizational structures or the existence of sea workers who belong to the indigenous world; it obliges the indigenous people to adopt organization formats that are alien to their culture, breaking down traditional systems; it deprives the communities from access to the sea and from the use of resources traditionally used; it impedes the every day relation of the mapuche lafkenche with the sea, depriving them of their material as well as their spiritual sustenance; it privatizes the sea among the*

*very mapuche lafkenche and causes intra and inter community conflicts; it causes conflicts with artisanal fishermen associations and unions, that are foreign to their communities*<sup>13</sup>.

As a result of this reflection, throughout the 1990s the mapuche lafkenche territorial organizations tried to make legal changes that permitted the recognition and protection of indigenous people's rights over the their territories' natural resources; proposals to change the indigenous law at first, and then an amendment to the fishing law, which meant very hard work with scarce results on the legislative level<sup>14</sup>.

With regard to the above, the organization did not close its doors to negotiation. Thus, in October of 2002, a delegation of lafkenche directors was able to meet with President Ricardo Lagos that led to the agreement to review a proposal to use the sea border that recognizes the rights of indigenous communities settled in the territory. *"With this, the lafkenche communities begin a broadly participative process and a full proposal is elaborated that establishes principles geared towards the recognition of the legitimate right to the lafkenmapu and its resources on the part of the communities' inhabitants, guaranteeing and respecting their rights"*<sup>15</sup>.

As a consequence of this process<sup>16</sup>, in 2004 the Government and the Lafkenche Territorial Identity Group agree to work on a specific legal proposal that includes the recognition and safeguarding of the lafkenche people's rights, an initiative that finally results in the text for the Hill that "creates a coastal area for the native peoples".

This proposal is worked on over 10 months by professionals from the Ministry of Planning (Mideplan) and the Sub-Secretary of Fishing, two specialist professionals contracted by the Group and five territorial directors from the Lafkenche Territorial Identity who have the role of providing feedback to the discussion from reflections and demands that arise in the territorial meetings with different communities.

At its core, this bill recognizes the existence of a coastal area for the native peoples and it hands over administration of the same to associations of indigenous communities whose members have exercised the common law use of the territory. This is a legal framework that is constituted from exercising ancestral rights, formalizing a corporate entity that corresponds to the indigenous community as a whole and not merely individuals. From this perspective, the bill refers to a political claim for exercising indigenous rights, a fundamental and broadly valorized issue by the players involved in the process.

For the Group's directors, the bill is the result of a long journey of community participation in debating its own condition as a people. Although it is a legal framework with uncertain results, its management recognizes the development of the indigenous identity and the recognition of shared values. This is how a director describes it: "At the first meetings, we discussed a text elaborated by a group of lawyers that sought to modify the fishing law".

13- Lafkenche Territorial Identity; "Hill that creates the sea coast area for Native Peoples"; material for socialization, June 2006.

14- For a review of this process see Toledo, V. Op cit., specifically pp.170-173

15- Lafkenche Territorial Identity; Op cit

16- Not foreign to conflicts and misunderstandings; among the movement's milestones, it is necessary to underscore President Lagos' "slight" by not appearing at a meeting with the lafkenche communities in Trawa-Trawa, Isla Huapi in March 2004; on the occasion "nearly 5000 mapuche lafkenche", were going to deliver a proposal for the indigenous territory to the President of the Republic.

We began to analyze it and we began to offer new ideas. It was signaling the recognition of the territory 3 miles inland, but we began to think from the cultural point of view, and we said, no way, we cannot as mapuches, if we are the owners of this area, limit ourselves to these three miles. An elderly director said the sea is ours, for as far as my eyes can see. No, we must start from the perspective that there must be a conversation, a debate, where we make it very clear that the sea belongs to us as the mapuche people. And that guarantees that we are a people that must exert its rights and not limit itself to those 3 miles. So, from that point of view, this text made us ready, because later, what are those who come after us going to say? *“the old men accepted the 3 miles, and we cannot do anything about it...”*. *“So we have to start a debate so that we can at least have a clear conscience that we did not just give it up, that we fought to the end. I think it was a very interesting debate, because we also talked about sovereignty, because the issue of the sea was an issue of mapuche sovereignty, not an issue about a certain number of miles... I think that is where the importance emerged of gathering more opinions from the communities to advance and elaborate a proposal and then discuss the proposal with the government”*<sup>17</sup>.

Although there are some critical opinions about the consequences of legal framework of this nature, especially with regard to the scope of economic rights (indeed, the legal framework does not establish the principle of retroactivity in the right to have access to the sea’s resources), it is also a consensus opinion that its formulation is a step forward in the definition of the cultural recognition of native peoples. This is how one of the technical consultants who participated in proposal’s elaboration expressed it: *“...the bill is unique; it has been the product of a participative process and includes aspects of legal community recognition of strong recognition of the mapuche identity, going beyond its effect on the domain, control and management of fishing exploration areas for the communities. That is something the communities are aware of: they demand the ceremonial use of the land, the sense of being there and of staying, a much more profound issue that a mere economic activity that for many communities is a circumstantial or marginal fact...”*<sup>18</sup>.

For the Lafkenche Territorial Identity, the accumulated experience of more than one decade of work is a process that strengthens indigenous organizations at a national level.

The generation of a bill agreed upon by the government and the mapuche lafkenche organizations<sup>19</sup> is a foundation for trust and a perspective of the strengthening of citizen action that will permit confronting new challenges and conflicts of the coastal mapuche people in the future<sup>20</sup>.

## The development of an organizational consolidation strategy

The second phase of Lafkenche Territorial Identity’s development refers to a work to consolidate the reconstruction strategy for the territorial identity, driven by the Group over recent years.

17- Interview with organization directors, August 2006.

18- Interview with María Isabel Castrillo; In charge of the Legal Area, Indigenous Institute Foundation. August, 2006.

19- The bill was approved on Monday, February 18, 2008., see the complete Law (available only in Spanish) at <<http://www.bcn.cl/leyes/pdf/original/269291.pdf>>

20- On the immediate horizon there is the threat of the project for a discharge pipeline from the Celco Cellulose Factory in Punta Chan-Chan y Alepue, mapuche lafkenche territory near San José de la Mariquina. According to the directors, progress towards recognition of the lafkenche indigenous communities by the Chilean government is an antecedent that creates hope that on this occasion they will not step on their rights.

In this context, the main challenge corresponds to defining a common strategy to face the main territorial conflicts and social demands that emerge from the communities activity. The privileged strategy results in holding mapuche lafkenche peoples' Congress where there will be the projected participation of about 450 community delegates or directors who will work on a diagnostic study and organize the demands into the future.

This process implies a broad-based political-social exercise: going from the logic of an activity based on the community to an ethnic territorial logic, capable of uniting experiences and feelings shared by the territory's inhabitants. This strategy certainly enables the development of greater management capacities in territorial conflicts, the integrated defense of the historical-cultural heritage as well as the promotion of economic and social development strategies adjusted to community characteristics, most of which are in situations of extreme poverty.

Although at the moment of elaborating this document full development actions are dealt with, it is clear that the main strategic emphasis points to the expansion of existing collaboration networks, ratifying the perspective for social participation and the construction of inclusive citizenship (with the particularity of dealing with an indigenous people with specific rights) which emphasizes this Group's work.

## Participation Spaces and Mechanisms

The participation mechanisms generated in the Lafkenche Territorial Identity Group experience are fundamentally based on three complementary scopes:

- 1- At the base level, in developing community territorial assemblies and meetings, where the organization's demands and proposals are channeled. These activities are spaces to exchange information, but also they are often moments to meet and reaffirm the community's identity <sup>21</sup>.
- 2 – Besides that, there is a work dynamic of a group of directors (between 10 and 15) who participate in operational commissions aimed at giving continuity to the Group over time. These commissions are for communication (development of strategies and information channels to the communities and abroad); organizations (aimed gathering information about conflicts and requirements at the territory level and channeling technical or professional support to confront them); management (which corresponds to the institutional links with public and private entities) and administration (in charge of accounting and the organization's administrative functions).
- 3 – The Group has favored the development of collaboration actions with people and social organizations in the hope of strengthening strategies and common actions. Along these lines, it should be understood that the existence of a network of professionals who support diverse activities over the year, the link with the Indigenous Institute Foundation, which has provided legal consulting for its legal recognition work, and the agreement reached with the Country Service Program for the participation of three

21- The visit to the area permitted participation in a meeting in the community of Juan Calfucura on Huapi Island; an important part of the meeting was set aside to recall the most important moments of the community, the important in meeting agains and to recall the experiences and fights by former community leaders to defend the territory's interests.

professionals as technical support for the diverse tasks the Group has defined. Certainly, the success in elaborating the bill would never have been possible without the management capacity and opening of third parties.

Besides these considerations, it is very difficult to summarize the type of work and the emphasis the Group director's put on their activities into an organizational management model or plan. Perhaps the Regional Director for the Country Service Program sums it up best when he says:

*"I believe that in this case, we are facing a type of social movement. The way Lafkenche Identity organizes and mobilizes is not the same as traditional citizenship that is interested in public things, and where there are relatively established channels for exercising democracy. Here we are facing the organization of native peoples who must construct their own action framework, and it is focused on their own issues: development of their identity, exercising their rights, the fight for greater autonomy, but also integration and recognition. I think this bestows a richness on our own concept of citizenship and the understanding of the challenges as a nation, as a more diverse nation...<sup>22</sup>".*

The development of an association strategy and of opening the relationship up to public entities and services (a contact strategy has recently been established by the Ministry of Education for an inquiry into intercultural educational actions in coastal communities) represents a different type of work within the mapuche Indian movement. This does not inhibit its commitment with transversal demands, seen in the group's participation in coordinating other identities, and creating ties with other indigenous organizations in Latin America.

## Sustainability

With regard to the experience's sustainability, it is possible to affirm that:

- a) The work carried out for over a decade permits supporting that the Group has a strong relationship base in the territory, founded on the legitimization its community representatives and directors have achieved. The leaders with the greatest public representation of Lafkenche Identity as well as the group of directors that comprises the permanent work nucleus, are recognized in the communities and their constant visits permit the generation of trust concerning the future.

This horizontal work and the absence of leading players in the nucleus of active leaders favors a basic work dynamic that is in constant exchange with organizations and representative in the territory. The next holding of a mapuche lafkenche Congress is an important step towards consolidating the territorial movement this Group has been developing for more than a decade and it should constitute a symbolic political event that strengthens its base.

- b) A second factor that contributes to the experience's sustainability stems from the Group's opening to cooperation with institutional or individual players with the movement's objectives. Over recent years, there has

22- Interview with Augusto González; Regional Director of the Country Service Program; IX Region. August, 2006.

been an expansion of the contact network, and as the experience of the professionals of the Country Service Program demonstrates, these relations are founded on the interest for mutual cooperation.

- c) In conclusion, the experience also demonstrates its perspectives for sustainability as the Lafkenche Territorial Identity has been able to legitimize itself as a representative organization of an ethnic identity, developing a type of transparent political work with other indigenous organizations, non-indigenous civil organizations and government entities. The result of this bill, which should finally be approved by the Senate, represents another indicator of sustainability into the future for the organization and for the objectives it pursues.

## 4. Learning

The experience contributes a series of lessons to the discussion of relationships or links between the State and civil society.

As we have attempted to demonstrate, this experience presents the particularity of dealing with an ethnic claim movement that over a long time has been developing work to link, pressure and negotiate with diverse State entities aimed at achieving institutional recognition.

Different from other disruptive or self-referral experiences, the Lafkenche Territorial Identity has privileged an action strategy that favors a democratic negotiation framework and greater levels of social participation in the search for a consensus to achieve legal recognition of the communities that inhabit the lafkenche coastal territory.

The initiative's success, reflected in the bill that creates the coastal area for the native peoples, is of evident importance and emerges as a successful demonstrative experience that can serve as a reference for alternative treatment (more democratic) of some of the serious conflicts that exist between the State and the country's native peoples.

Likewise, the experience demonstrates a high degree of innovation in how the Group links the communities' problems, needs, demands and proposals to the (re)construction of a culturally united territory. At least potentially, this is a favorable field for implementing coherent public policies with greater levels of integration to a balanced development strategy.

The presence of territorial social players capable of safeguarding social and cultural heritage in the territory without discarding modernization initiatives of evident public interest, is capital of great significance that significantly contributes to local or regional development processes.

A key factor that sustains the experience stems from the generation of spaces for interrelationship and cooperation between the different players in the process.

As we have tried to demonstrate, the initiative's achievements would not have been possible without an opening and the adaptation of the indigenous

social organization to the technical-political operations, rhythms and criteria that characterize State management. Likewise, the experience is founded on learning and flexibility generated within the very governmental entities. An encouraging indication is the fact that Mideplan's governmental counterpart, which participated in the elaboration of the legal recognition proposal, currently directs the National Corporation of Indigenous Development (CONADI).

Although difficult to control on the part of the process' main players (mapuche lafkenche community directors and leaders), this demonstrates the learning potential the initiative has for the public sector and is a clear example that it is possible to change how work when aimed at achieving objectives of national interest.

## 5. Conclusions

After more than a decade of meetings, exchanges of experiences, demand mobilizations and dialogues with non-indigenous social organizations and State entities, the Lafkenche Territorial Identity is a different experience in the expansion of the idea of citizenship and local management.

As we have pointed out, the experience's main axes are founded on the construction of an ethnic identity territory, the opening and willingness to participate in diverse cooperation networks with indigenous and non-indigenous social players, and most especially, the capacity to link and negotiate with State entities in the search for agreements, space for recognition and mutual support.

The most important achievement is seen in the bill that creates the coastal area for native peoples. It is the product of systematic collaboration work among directors, public sector professionals and civil society entities; however, it is also the product of reflection and proposals generated in the communities that comprise the mapuche lafkenche territory. This initiative represents an unprecedented participation model for indigenous directors and communities in the discussion of a legal proposal that recognizes ancestral cultural rights.

From this perspective, this experience is a notable expression of the exercising of social or cultural citizenship that is able to overcome the limits of rigid and formal institutional models, strengthening the value of democratic and innovative alternatives in building relationships between the State and native peoples.

## 6. SWOT Analysis

### Strengths

1. The Group has a broad network of leaders and favors the emergence of new young directors, without excessive leading players or specific interests

that jeopardize activity development. This aspect is fundamental for sustaining intense work with little support from material resources.

2. The territorial link this organization promotes is notable by revealing the symbolic and reaffirmation aspects of identity, legitimizing the role of its community leaders with remarkable respect for the organizations' own paces.
3. Another strength is the capacity for opening to other indigenous and non-indigenous organization players, which permits the strengthening of alliances and the recognition of the Group as an effective social reference in defense of the lafkenche people's interests. This willingness has permitted the organization to count on the support of a network of volunteer professionals, and since 2006, the presence of three professionals from the Country Service Program who work as a technical support team on the organization's tasks.
4. Finally, another strength is this experience's willingness to dialogue and negotiate with government entities, a fundamental factor for success in elaborating the bill for the coastal area.

## Weaknesses

1. As occurs with many experiences of this nature, the scarcity of resources is a formal limit for the implementation of its initiatives, requiring tremendous management efforts and the search for external support for every day sustainability.
2. In the specific case of this experience, the extension of the lafkenche territory, and the relative isolation of many communities, represents a factor that limits permanent work, and it is often necessary to re-establish confidence in the players or resume tasks or activities that already seemed overcome.
3. In a more specific sense regarding organization dynamics, it can be said that, potentially, the end of the discussion process for the law on the sea border is a threat to the process triggered by the Group since some of the organizations could consider the objective from which they originated has been accomplished. The big immediate challenge, as has been reiterated in the interviews conducted in the area, is to elaborate a broad proposal that fully assumes the requirements and needs of the lafkenche people in order to strengthen work on specific areas of productive activity, health or education, with the objective of improving isolation and marginalization conditions that have accumulated over the decades for these people.

## Opportunities

The experience demonstrates the potential for developing self-managed initiatives by indigenous social organizations that, without abandoning their claims and appealing to cultural identity principles, are able to negotiate with



political authorities and achieve agreements and consensuses about a legal and institutional framework that favors respect of the rights of the native peoples.

Regardless of the final fate of the bill still under discussion, it appears as fundamental and is an undeniable reference for the development of future public management policies, and most especially of spaces for citizenship in a context that has historically been highlighted by the denial and exclusion of basic rights for native peoples.

## Threats

In a general sense, the failure of an initiative such as this would reinforce excluding logic concerning the Indian movement as well as the government, worsening existing conflicts in the indigenous territory (and most specifically the mapuche) and making it impossible to manage the new ways of constructing the State-civil society link in the Indian world, as demonstrated by this experience. •

# USA - NAVAJO TREATMENT CENTER FOR CHILDREN AND THEIR FAMILIES DIVISION OF SOCIAL SERVICES, NAVAJO NATION

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By Honoring Nations Team

Responding to a rash of child sexual abuse cases in Arizona and a federally legislated opportunity to craft tribal solutions, the Navajo Treatment Center for Children and Their Families was launched in 1990 to provide Western and Navajo therapy to children who have been sexually abused. With six offices on the reservation, the Program administers sand play, art and play therapy, energy psychology and trauma reduction counseling, and provides services and referrals for traditional Navajo therapy. They also conduct forensic interviews. By effectively addressing a pressing but rarely discussed social problem, the Center is helping to create a safe environment that nurtures children and families' physical, mental and spiritual wellbeing.

In spite of the vital importance of protecting and promoting children's physical, emotional and mental wellbeing, research shows that, in the United States as a whole, as many as one out of every four children is or will be a victim of sexual abuse. The effects of such abuse are devastating. Victims experience tremendous pain, confusion, shame and a feeling of hopelessness, and not only they but their families struggle to cope with the horror and stigma of the experience. The problems are particularly pronounced in Indian Country, where sexual abuse occurs at rates about three times the national average. Indian nations must also deal with more prevalent occurrences of the problems with which child sexual abuse is correlated, including alcoholism, substance abuse, poverty and isolation. Sadly, child abuse is often intergenerational, typically perpetrated by someone the victim knows and trusts (such as a relative, family friend or caretaker). As a societal taboo, the abuse goes vastly underreported. Too many governments – both Native and non-Native – are poorly equipped to address child sexual abuse when it occurs, and even fewer possess the necessary institutional capacity to break the cycle of abuse.

Although the “silent problem” of child sexual abuse has long existed on Indian reservations in the Southwest, the Navajo Nation, like many other tribes, did not commit much energy or many resources to addressing it until the mid-1980s. At that time, the issue gained regional and national attention when a federal government-employed teacher on the nearby Hopi Reservation was convicted for molesting dozens of Native children. This shocking incident

brought the problem into public discourse and exposed the tribes' and federal government's inadequacies in providing treatment for victims and their families. For the Navajo Nation, the incident prompted a self-assessment of its social services. The discoveries were disturbing. Child victims and their families had few resources to turn to for help; the social and legal services that did exist were disorganized and unstructured; treatment was fragmented; and criminal investigations were handled inconsistently and often inappropriately. For the federal government, the incident at Hopi caused lawmakers to realize that little assistance had been provided by either the Bureau of Indian Affairs (BIA) or the Indian Health Service (IHS) to help Indian nations develop and deliver adequate child protection services for their citizens. Unfortunately, it took a crisis to force tribal and federal policy makers into action.

Both the federal government and the Navajo Nation acted swiftly. Senators John McCain and Dennis DeConcini, among others, introduced federal legislation that created strict rules for reporting sexual abuse within federal agencies working on Indian reservations, and provided tribes with resources needed for establishing child protection services. Seizing the opportunity to address this sensitive issue within their homeland, the Navajo Nation created an ad hoc committee to develop a child sexual abuse program within its Division of Social Services and to seek federal funding made available under the new legislation. The Navajo Nation was one of three Indian nations to subsequently receive federal funds, and in October 1990 the Navajo Child Sexual Abuse Program was born (it was later renamed to Navajo Treatment Center for Children and Their Families).

The Navajo Treatment Center for Children and Their Families seeks to provide comprehensive outpatient therapeutic services to children between the ages of 3 and 17 who have been traumatized by sexual abuse. The Program's philosophy is that all children of the Navajo Nation are entitled to a safe, healthy and loving environment, which nurtures and protects their emotional, mental, physical and spiritual wellbeing. In order to serve the large, geographically diffuse population, the Center has six offices spread across the Navajo Reservation and employs five clinical supervisory social workers, seven Masters-level therapists and five traditional counselors – all of whom are Navajo. It offers Western-based clinical treatment and therapeutic services, including sand play, art and play therapy, energy psychology, and trauma reduction counseling, as well as Navajo-based treatment and services, including indigenous diagnosis and counseling and referrals to medicine persons and traditional healers. Additionally, the Center conducts forensic interviews of child victims, which are used by criminal investigators for legal proceedings against the perpetrators. To ensure coordination between treatment, criminal investigation and prosecution, the Center works closely with a multidisciplinary team comprised of representatives from the various tribal, state and federal programs and agencies that play a role in preventing and responding to child sexual abuse. Finally, the Center regularly engages in community outreach and

education in an effort to inform the Navajo citizenry of its services and to raise awareness about the problem of child sexual abuse.

The Center's very existence is an outstanding accomplishment. Recognizing that effective self-governance requires tribes to confront even the most highly stigmatized and difficult social problems, the Navajo Nation acted upon its solemn responsibility to foster the existence of a safe and healthy environment for its most vulnerable citizens – its children. The Navajo Nation accepted the challenge of responding to an issue that many communities would rather keep secret. Indeed, good governance mandates that Indian nations be responsive to compelling social problems that threaten the welfare of their citizens.

While the creation of a tribal child sexual abuse program is laudable, so too is the Navajo Nation's commitment to developing and maintaining a first-rate program. Four aspects of the Center deserve particular attention.

First, through meticulous data collection and management, the Center and its partner agencies have been able to gain a better understanding of the scope and patterns of child sexual abuse. For example, the Center discovered that in 1999 alone, 861 sex abuse cases were substantiated and almost 7,000 reports of abuse and neglect were reported. They also learned that 88 percent of child abuse cases involve children under the age of five and that 85 percent of parents are victims of childhood sexual abuse. As upsetting as these figures are, the Center understands that data collection, coupled with detailed internal performance tracking, enables it to measure progress and structure services to best meet institutional objectives.

Second, the Center has tailored itself to meet the specific needs of the Navajo people, demonstrating that culture is an important consideration in service provision. As noted, one of the Center's most unique characteristics is its combination of Western and Indigenous therapeutic approaches, an integration that ensures cultural relevancy and, likely, strengthens sexual abuse treatment. More comprehensively, the Navajo philosophy of K'e (whose central tenants are responsibility, respect and harmony in relationships) runs throughout all of the Center's activities. For example, traditional counselors provide education on the Navajo clan system, parenting, child development and other Navajo traditional beliefs and practices, and they provide referrals to medicine persons who can perform ceremonies and prescribe herbal medicines. Also, the Center brings services directly to its clients and serves entire families. Interaction between staff often occurs in the Navajo language; takes place in a home/hogan setting where the victim or family is most comfortable; and includes non-offending members of the family, a practice which reflects the Center's belief that the family plays a key role in a child's healing process and in restoring K'e.

Third, the Center has developed an effective forensic interview process that has enhanced the ability of tribal, state and federal authorities to prosecute sex offenders. Because sexually abused children sometimes do not show physical signs of abuse, forensic interviews are one of the most important components

of a child sex abuse investigation; in fact, legal prosecution often hinges upon the details obtained in the interview process. Despite their importance, there was no formal protocol for conducting forensic interviews prior to the Center's creation. Interviews were often conducted by non-qualified individuals (such as school personnel), and cases were lost. Worse, because of overlapping jurisdictional lines and a multitude of legal authorities, a child might have suffered the additional trauma of being interviewed multiple times by multiple individuals. Today, all cases of sexual abuse follow a standardized procedure: Child Protective Services assigns a primary social worker to a case, and the social worker contacts a qualified forensic interviewer to conduct and video/audio tape the interview. The tape is then forwarded to the appropriate legal authority (tribe, state, federal government) for prosecution. Since the Center took on the role of forensic investigator and instituted a coordinated set of procedures, the process not only has become more focused on the care of the victim, but conviction rates have also increased.

Finally, the Center has accomplished the almost insurmountable task of coordinating the efforts of separate agencies by forming a core discipline group to address child sexual abuse. Members of the group include criminal investigators, prosecutors, social workers, therapists, IHS physicians and mental health staff, BIA school authorities and professionals in other Navajo government departments. The multidisciplinary group meets monthly. In addition to these efforts, the Center is actively involved in several intertribal child sexual abuse alliances, in order to develop and share best practices. This multidisciplinary approach improves efficiency in service provision by eliminating process redundancy, clarifies the roles of the numerous agencies involved in addressing child sexual abuse (which are articulated in detail in a protocol manual), and is allowing the Center and the Navajo Division of Social Services to assume greater control of processes that were once managed exclusively by the BIA and the FBI.

The Navajo Treatment Center for Children and Their Families is confronting and dealing with an extremely difficult, yet common, social problem in Native America. The Center's exemplary work provides much-needed treatment for Navajo society's most at-risk individuals and families, demonstrating that it is indeed possible to treat children with the protection, dignity and respect they deserve. It is a worthwhile example for other governments, Indian and non-Indian, to follow.

## Lessons:

- Good governance mandates that Indian nations be responsive to compelling social problems, and often, the response requires coordination between tribal and federal agencies. Creating multidisciplinary teams, developing detailed protocols and working closely with other tribal and non-tribal agencies are several ways to craft effective institutional responses.

- Successful programmatic intervention begins with extensive data collection and information management. Maintaining clear records and detailed data enables tribal programs to track progress and tailor services to best meet community needs.
- Matching social services to community needs may require the integration of Western and indigenous practices. For example, Western therapy can be integrated with traditional approaches to healing. •

# AMERICAN INDIANS NATIONS (USA)- YA NE DAH AH (ANCIENT TEACHINGS) SCHOOLCHICKALOON VILLAGE

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Honoring Nations Team

*Dedicated to providing community youth with the skills necessary for functioning in a modern world while maintaining Native knowledge and practices, the Ya Ne Dah Ah School is Alaska's only tribally owned and operated full-time primary school and day care facility. Located in a two-room schoolhouse and supported entirely by private donations and tribal funding, the School's twenty students are taught – and excel in – the conventional topics of science, math, English, and social studies. In addition, the students learn Ahtna Athabascan history, language, music, and art – topics and skills that the Village of Chickaloon values and that community members help the School to teach.*

While many of Alaska's 227 federally recognized tribes confront challenges related to isolation and distance from sustainable economic activity, Chickaloon Village's challenges stem from its proximity to mainstream society. An Ahtna Athabascan Indian community in the Matanuska Valley of Alaska, Chickaloon Village and its 250 tribal members are only sixty miles northeast of Anchorage, and thus, they have been under particularly intense pressures of acculturation. Once the stewards of vast landholdings, they have become a minority in their own homeland. There are not many Native speakers left, many cultural practices have become endangered, and worse, some have been lost. Chickaloon youth have been beset with problems characteristic of urban areas. And unlike what is found throughout much of Indian Country, where a growing number of tribes are exercising their sovereignty to successfully overcome chronic socioeconomic problems, Native leaders in Alaska face the unwelcome reality that Alaskan borough, city, and state governments possess jurisdiction over education and other essential tribal government functions. For example, although the Alaska State Legislature receives federal funding for Indian education, most monies are funneled into the state system.

The education of Native youth in the Alaskan public school system has long been a topic of deep concern to tribal leaders and Native parents at Chickaloon and elsewhere. Such concern is warranted: Native students in Alaska's public schools suffer from much lower rates of educational attainment and drop out at much higher rates than their non-Native peers at both the state and national levels. Indeed, there is a long-standing distrust among Natives of

“conventional” classroom methods and even of the public schools’ educational intentions themselves – distrust that is fueled by the fact that most Alaskan public schools lack Native-relevant curricula despite large Native student populations.

Concerned about the quality of education that their students were receiving in the public school system, coupled with a desire to curb the decline of Ahtna Athabascan cultural practices, the Chickaloon Village decided to take matters into their own hands in 1992. In a path-breaking exercise of sovereignty, the Village established the Ya Ne Dah Ah, or “Ancient Teachings,” School – the first and only full-time, year-round, tribally owned and operated day care and elementary school in Alaska. Founded and staffed by tribal members who had seen the positive impact of tribally run schools in other Native communities outside of Alaska, the Ya Ne Dah Ah School acknowledges the crisis in Alaskan indigenous education and confronts it at a local level. The School provides its students with an education that integrates Athabascan heritage and mainstream education. In particular, its curriculum effectively melds traditional teachings with modern non-Native subjects, creating a learning environment in which Native students can identify with and feel connected to their culture and community while learning to understand and function productively in the non-Native world. Like many other tribal schools, Ya Ne Dah Ah is committed to providing students with an education that instills respect for human dignity, diversity, and self-determination.

The Ya Ne Dah Ah School educates the majority of elementary school-aged children in Chickaloon Village. Currently, twenty children attend Ya Ne Dah Ah, most of whom are tribal members, though several students are tribal government employees’ children and other non-tribal community members. This year, the children attending the Ya Ne Dah Ah School are between the ages of one and twelve and in grades six and below. The School is growing with the children, so next year it also will offer a seventh grade curriculum. Ultimately, the Chickaloon Village government hopes to expand the Ya Ne Dah Ah School’s facilities and student population, creating a multicultural education system that will serve all Village members from birth through adulthood (adult-education courses and even a tribal college have been discussed). The School’s past success speaks highly of its capacity to realize these dreams. The School began with a part-time, volunteer teacher; today, it employs a full-time, certified teacher.

These expansions of the Chickaloon Village school’s budget, student population, services, and academic activities stand in stark contrast to neighboring public schools. Indeed, many Natives are returning to the area so that their children can attend the Ya Ne Dah Ah School, and now, the very existence of a waiting list is a telling measure of the School’s success. The students’ academic records are another important draw. Unlike most other schools that serve Alaska Native populations, Ya Ne Dah Ah students remain in school – dropouts are not a problem. Furthermore, they score higher on standardized tests than their



national counterparts. The Chickaloon Village School Board keeps a close eye on these results. It reviews the Ya Ne Dah Ah School's progress on an annual basis, charts individual students' achievements according to federally and state approved assessment methods, and communicates findings to parents and to the Tribal Council in regular progress reports.

The Ya Ne Dah Ah School's success is the result of several distinctive factors. First, it is an essential government function that is integrated into Chickaloon Village and local Ahtna Athabascan life. An Alaska Daily News article reported that, "Nothing the tribe does is as important as running its school. Polls of tribe members place education and cultural preservation as the top priority". While parental participation is nearly 100 percent – parents volunteer to help with School events, provide all School transportation needs, and even teach in the School – other adult community members contribute to facility maintenance and education efforts as well. The School has inspired an admirable commitment among its faculty. The cultural teacher and day care teacher are returning to the local university to receive more formal education training. Tribal offices are also actively involved in the School's curriculum. For instance, Chickaloon's Health Department provides health education; its Community Oriented Policing Services program offers safety classes; and the Department of the Environment teaches map making and assists with science classes. In addition to the support of parents, community members, and the tribal council, the Ya Ne Dah Ah School depends upon the support of surrounding schools and other Native villages. Area public schools provide services such as access to a swimming pool and library on a weekly basis. Members of other Athabascan villages, such as Arctic Village and Copper Center, visit regularly and even teach the Chickaloon children traditional songs and dances of the Athabascan people.

In the absence of federal and state support, this extensive community involvement has been crucial to the School's survival. Indeed, a second factor in the Ya Ne Dah Ah School's success has been its ability to accomplish so much with so few financial resources. Ya Ne Dah Ah School's \$150,000 annual budget – none of which comes from state or federal sources because the Village is unwilling to rescind aspects of its sovereignty – does not afford the School many amenities that non-Native schools enjoy. The School operates in a donated two-room schoolhouse without running water; its day care facility is housed in a small separate building. The School relies on private sources of funding by working closely with private foundations and CIRI (the Native regional corporation), ultimately gaining 98 percent of its annual budget from these sources. The Tribe supplies the remaining 2 percent of funding through bake sales, pow-wow proceeds, and individual donations. In other words, private contributions, volunteer labor, and an education board that manages to do a great deal with scarce funds have made it possible for the Ya Ne Dah Ah School to function on a shoestring budget.

A third factor in the Ya Ne Dah Ah School's success has been its determination to promote Athabascan culture in its curriculum. As noted, "Ya Ne Dah Ah" means "Ancient Teachings", and the School has become a center for the maintenance and dissemination of Athabascan cultural practices. Although there are fewer than fifty fluent Ahtna Athabascan speakers in the world and most of them are over fifty years old, the students in the Ya Ne Dah Ah School are now learning the language. They study Ahtna Athabascan not just in "language" classes, but also through their work in math, culture, social studies, and art. The Ya Ne Dah Ah School also is piloting culturally specific units such as Songs & Dance, Potlatches, Fish Traps & Wheels, Birch Bark Basket Making, and Yenida'a Stories, all of which feature reading materials, hands-on activities, and multimedia videos. And there is evidence that these investments are paying off. The first graduate of the Ya Ne Dah Ah School is now the instructor of the Ya Ne Dah Ah School youth dance and drum group as well as an Ahtna language teacher; one of the only young people in all of Alaska to speak the traditional Ahtna language, he is a source of pride for the entire Nation. In 2001, Ya Ne Dah Ah School students welcomed tribal leaders from across the U.S. to a three-day environmental health conference in Anchorage with an hour-long performance of traditional drumming and dancing. Further, the culturally relevant teachings of the Ya Ne Dah Ah School are giving rise to responsible and informed tribal citizens whose respect for Ahtna Athabascan traditions and culture are enabling them to create even more effective and appropriate Village governance.

A final demonstration of the Ya Ne Dah Ah School's success is its ability to merge cultural teachings with mainstream curriculum and to share that learning. Relying on both traditional and contemporary methods of teaching, the Ya Ne Dah Ah staff offer instruction in the Ahtna Athabascan language, respect for the environment, traditional values, ethics, Athabascan cultural practices, math, social studies, science, and language arts. Not surprisingly, the Ya Ne Dah Ah School has become a catalyst for curriculum development. The Chickaloon Village's Department of Education supports a Curriculum Development Project that creates high-tech, multi-media Ahtna Athabascan cultural heritage curricula found nowhere else in Alaska. These curricular units are fully integrated into the Ya Ne Dah Ah School and have recently been integrated into the neighboring Matanuska-Susitna Borough School District that serves over five thousand students. These units are targeted for statewide and national distribution in the next few years.

The Ya Ne Dah Ah School exemplifies a commitment to perpetuating Native sovereignty in an environment sometimes unsympathetic to that stance. By reclaiming its own educational process and successfully merging cultural and modern curricula, the School has exceeded state and national standards while reinvigorating the traditional life of the Village. With its solid academic foundation, its substantial local support, its partnerships with private foundations, and its evidence of success, the Ya Ne Dah Ah School serves as a model for Indian nations.

## Lessons:

- Indian nations and Native villages that are deeply committed to self-determination are persistent in their efforts to overcome political, financial, and institutional obstacles to self-governance. A “can-do” attitude is a prerequisite for tribal success.
- Tribal schools can combine traditional teachings and Native culture with mainstream curriculum by involving elders and other community leaders in students’ education, teaching math and science through “real life” applications, and offering Native language, music, art, and history classes. The pursuit of culturally sensitive teaching need not inhibit a school’s ability to produce students who excel by standard measures of academic achievement.
- Schools that encourage parents, family members, and community leaders to become involved in their children’s education help ensure student success. Community involvement also gives schools access to a broader range of resources and teaching tools •

# Chapter III - Youth

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# KENYA - MATHARE YOUTH SELF-HELP SLUM AND ENVIRONMENTAL CLEANUP PROJECT

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Milgap Team

## Background and scope of the project

*The MYSA Leadership Awards Project tries to help our best youth leaders to stay in school.*

Over 80% of the families living within the Mathare slums are headed by single mothers who have had little or no education. Consequently, they struggle in menial jobs in order to get money to feed their families. Mathare families are often too poor to pay fees for all their children to go to school. Children therefore, unsupervised by a parent or parents who are at work, spend their days on the streets in search of food or income. Many are then arrested by the police and jailed while waiting processing at the Nairobi Juvenile Court and later taken to juvenile remand homes until their parents are able to collect them. This doesn't always happen, as the mothers often don't know their children are in jail. Every Monday, Wednesday and Friday up to 100 children are collected from local jails and police stations, crammed into trucks and taken to the juvenile courts located beside the Kenya parliament buildings. Their ages range from 3 to 16 years old. For many, their primary offence is being poor, abandoned or orphaned and but most are charged with vagrancy.

The Mathare Youth Sports Association (MYSA) therefore started in 1987 as a small self-help youth sport and community service project in Mathare valley, Nairobi's largest slum settlement. MYSA is run for and by the youth of the Mathare slums and is therefore a self-help youth programme linking sports with environmental cleanups, AIDS prevention, leadership training and other community service activities involving approximately twenty thousand young people.

The organization has grown from a small youth group to an internationally renowned youth serving organization that promotes sports for development. By 1988 120 new teams joined the group and marked the beginning of Kenya's first football league for under 12 year olds. With this progress, the slum cleanup projects were increased and registration of MYSA as non-profit and non-political organization under the Societies Act was sought. By 1996 about 5,000 boys and girls composing 350 teams from 50 slum villages and estates participated in the

MYSA sports, slum cleanup and HIV/AIDS prevention projects thus fulfilling MYSA's vision: "Give youth a sporting chance"

## Objectives

The organization aims to:

- create opportunities for young persons to develop physically and personally while engaging in community development
- promote life skills and empower young people to participate in activities that affect them and their environment
- mainstream citizenship and promote responsibility in environmental issues
- Encourage many females to participate in sports thus providing many sporting opportunities and opportunities through sports for the girl child. This also promotes healthy gender balances within the organization. (see annex).

MYSA is run by young people, most in a voluntary capacity as coaches, referees and organizers. The MYSA league is run by local committees of the coaches and captains. The Chairs of each local committee constitute the Sports Council, which is responsible for all MYSA sports programs. The Community Service Council consists of local community and youth leaders who organize slum cleanup projects. Both Councils elect several members to the Executive Council, which is responsible for the overall management and budget of MYSA. That it is run for and by the youth themselves in the 16 zones of the city is the main reason for the success of MYSA. The average age of elected officials and volunteer organizers and coaches is 16 years.

## Strategy and activities

Through youth driven leadership initiatives, young persons in MYSA contribute positively to the wellbeing of their community. They earn points for their performance in different sports and community activities. Under this project, young people and their teams are encouraged to voluntarily clean their community. They remove solid waste weekly and unclog open sewers to reduce disease. Youth football teams participate in environmental clean-up projects that earn them points in their league. The youth of Mathare and its neighboring have been involved in the cleaning up of their environment and opening of blocked drainage systems with little or sometimes no proper tools at all. All the teams participating in MYSA leagues have to do at least two community service programmes scheduled on their fixtures. Each year MYSA organizes a total of 48 cleanups 16 cleanups are done during special occasions e.g World Environment Day.

Each completed garbage collection project, for example, earns a team 6 points while a match victory earns the team 3 points. Each year the best young

leaders by age and gender in the 16 zones in the slums then receive MYSA Leadership Awards, which also consist of educational bursaries/scholarships, worth Ksh 10,000, which are paid directly to their schools in support of school fees. In 2004, 400 young MYSA leaders received awards.

As a self-help youth programme, the basic organizational principle in MYSA is “You do something, MYSA does something; you do nothing, MYSA does nothing”. So through the MYSA Leadership Awards, young leaders are identified, motivated and supported to engage in positive community building initiatives and enables these best leaders who might otherwise not be able to get pay for their school fees stay in school.

The Mathare United senior and junior professional teams each do a minimum of 60 hours of community service a month and have proven to be good role models and heroes of other youth in the Mathare slums.

The other projects in MYSA include the photography programme through which the youth acquire photography and videography skills; the children at risk programme which helps feed kids in the juvenile courts and the Kabete remand home; the anti-child labour programme and finally the drama, puppetry, music and dance project which imparts life skills messages through entertainment.

## **Achievements of the project**

- MYSA has acquired garbage/tipper trucks and tractors and periodically clears all the accumulated garbage. MYSA had purchased of 2 trucks and 2 tractors to assist clean up. These were later sold when it became expensive to run them due to old age.
- The association has grown to a membership of 24,000 youths aged 11-18 years participating on over 800 boys and 250 girls teams playing over 10,000 matches a year.
- More recently, a girl’s league has been established with great success.
- Mathare United Football Club, an offshoot of MYSA has featured among the top Kenyan soccer teams and represented the country in regional tournaments.

## **Addressing the challenges**

The Mathare slums have high rates of HIV/AIDS infection. Since 1994, over 300 young boys and girls have received intensive training and are able to reach out to over 100,000 youth with critical information on AIDS prevention. Under the Gender Partnership Project started in 1996, over 3,500 girls are now members. Half the part-time staff are girls who earn wages on weekends to pay for their own school fees. Under the Leadership Awards Project MYSA also pays the school fees for over 50 top youth leaders.

MYSA projects outside the Mathare slums include providing lunch for jailed kids at the Juvenile Court and renovating the cells and toilets. In 1998



MYSA set up a self-help sports and community service programme for 30,000 refugee children at Kakuma Camp in northern Kenya. Most of the several hundred elected MYSA officials, staff, trainers, leaders, volunteer coaches and referees are under 16 years old.

MYSA is considering acquiring skills and the necessary equipment which can be used to start a garbage recycling plant. This can be one of the biggest income generating activities for MYSA. •

## Annex

### EXAMPLE OF THE KEY PROJECTS OF MYSA: THE JAILED KIDS PROJECT

In 1997, MYSA started the jailed kids project as a community support programme with the overall objective of getting children released from remand homes or jail and reunited with their families. The key objectives of the Jail kids project was to feed the arrested children, and initiate programmes to better the situation in the remand homes while looking for options to unite the children with their families. The key achievements of this project include:

- Fed a total 31, 539 kids - an average of 457 arrested children per month(including annual Christmas day meals).
- Re-united over 1,235 children with their families within the Mathare slums and outskirts.
- Linked over 421 poor mothers from the Mathare community with the Jamii Bora Trust (micro-financing organization) with the aim of starting small-scale businesses.
- Created a good working relationship with the Children's Department, the police, the Mathare community, the jailed kids and other local authorities.
- Employed committed staff and established a network towards management by objectives.
- Repatriated 824 children back to their localities outside Nairobi.
- Initiated sporting activities at the remand home where 559 boys and 291 girls trained in football netball and volleyball. Apart from the fitness aspect it also counteracted the boredom in the home.

#### Future aims

- Prevent more kids from going in jail while helping those already jailed for long periods.
- Toilets and showers at the Kabete remand home are in a sorry state and a health hazard and should be renovated.
- At the moment we are able to provide basic first aid but some kids need more professional medical checkups and treatment including treatment for psychological disorders and trauma.
- It has been time consuming and very expensive to repatriate children back to their localities using public transport. With a vehicle, we will be able to greatly increase the number of kids we remove from the juvenile system and reunite with their families and will be easier to make follow-ups.
- Almost all of the kids who have been released and reunited with their families find it very difficult to go back to school.

#### Challenges

Although there is free primary education in Kenya their parents still have to buy uniforms and sometimes textbooks. This is a very big challenge to most of the parents. Some of the kids end up on the streets and in the cells again. To avoid this cycle a return to school formula has to be worked out. Providing the families with initial assistance to buy the uniforms can be one way to stop the kids filtering back into the streets. Communicating with other kids outside the home would benefit those inside through ICT, but the young kids locked in the cells do not have access to information about AIDS and drugs. In future, this will form part of the life skills teaching that the youth of Mathare want to impart to the juveniles.

MYSA promotes human rights and citizenship. The implementation of projects is based on respect for others and social responsibility. The participatory management style used is transparent, promotes democratic principles and nurtures accountability.



# **Capter IV - Human Rights and the Justice System**

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# MEXICO – RESTRUCTURATION AND MODIFICATION OF ADMINISTRATIVE JUSTICE SYSTEM, MAZATLAN, SINALOA<sup>1</sup>

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MC Jorge Figueroa C<sup>2</sup>. and Pablo Rojo<sup>3</sup>

## Introduction

The Barandilla Court has as its main function to punish offenders to the rules of social coexistence derived from Police Department and Good Governance. The Court immediate legal framework in Mazatlán, arises from: Sinaloa State Public Security Act, Act that establishes the Ruling Bases for Police Expedition and Good Governance in Sinaloa State; Civil Service Regulations of the Municipality of Mazatlán, Regulations for Preventive Police Action and City Traffic in Mazatlán, and mainly for the Police Department and Good Governance in the Municipality of Mazatlán. In a senior legal hierarchy, the Sinaloa State Municipal Government Act, Sinaloa State Political Constitution and the Political Constitution of The United States of Mexico are found, in particular, Article 115 which specifies on life of the country's municipalities.

Article 7th on the Act that establishes the Ruling Bases for Police Expedition and Good Governance in Sinaloa State "...finds fault or infringement to the Police or Good Governance any antisocial behaviour which, while no being a crime, affects public morals, health, property, people tranquillity or offends custom and practice". The same Act exposes in its Article 8th faults likely to be sanctioned by Police or Good Governance (hereinafter Bando) as regards:

- I. People security or tranquillity;
- II. Public Morals;
- III. Public health;
- IV. Property;
- V. All those actions related to prevention of crime<sup>3</sup>.

As regards public security and municipal administrative justice, it is relevant to emphasize that this municipality as well as most in Sinaloa, are immersed in a drug trafficking environment which generates drug addiction, social violence, impunity and a high homicide rate. As an example, the Office of Justice of Sinaloa State,<sup>4</sup> recognizes 601 homicides only in 2006, and 3303 homicides from 2001 to 2006, committed mostly by "gatilleros" linked to the narcos, who

1- Act that Establishes the Basis for the Rules for the Expedition of Police Bandos and Good Governance of Sinaloa State, Decree N° 458, published in the Official Newspaper of Sinaloa State, N° 53 dated 2nd May, 1988. Sinaloa, Mexico, 1988.

2- Professor-researcher at Social Science Faculty, Autonomous University of Sinaloa, Mazatlán Unit, Teacher in Regional History, Doctorate in Administration, Autonomous University of Durango.

3- Professor-researcher: CIDE.

4- Sinaloa State Attorney General Office. Website: <<http://www.sinaloa.gob.mx>>

have claimed lives not only of those directly involved in the illegal, but also of women, children, elderly, or those who were unluckily close to the executions or near that infernal environment.

The present paper refers to two periods in Alejandro Higuera Osuna government, present Mayor of Mazatlán. In the first period, from 1999 to 2001, the following offences occurred in this county: 6,226 crimes in 1999; 5,984 in 2000, and 5,201 in 2001. In the second and present period, from 2005 to 2007, there occurred 5,976 offences in 2005 and 5,664 in 2006. These data of the official statistics from the Office of Justice of Sinaloa State<sup>5</sup>, shows a noticeable decrease in the years under this administration. The consulted source lacks of statistics data regarding offences to the Police and only processed malfeasance.

5- Sinaloa State Attorney General Office. <<http://200.52.176.53/sitioweb/estadistica.htm>>, January 2007.

In this scenario there are attempts by municipal governments to promote innovative policies and measures to deal with social violence and particularly the aftermath of drug-trafficking reflected inter alia, in common crime and youth violence. That is why programmes or actions that will contribute to improving public safety and quality, and the provision of administrative justice in the field of municipalities, acquires social interest and involves government sectors, academic segments and citizens interested in the subject.

## 1. General data on Mazatlán Municipality in Sinaloa

In Sinaloa State, after its capital city Culiacán, Mazatlán is second important city as regards economics, urban development and population. In addition to being one of the most important tourist destinations in the country, it has also become famous for its majestic International Carnival annually celebrated during a week ending on Ash Wednesday with the start of Lent. It has a beautiful and well-preserved Historical Centre declared historic heritage by UNESCO. This port has been known as the Pearl of the Pacific because of its fabulous beaches, warm water, tropical climate, beautiful islands that protect its bay, as well as the traditional hospitality of its people. Mazatlán is located 22,5 Km. south of the Tropic of Cancer, between the meridians 105°46'23" and 106°30'51" west of Greenwich and between the parallels 23°04'25" and 23°50'22" North latitude. To the north, it borders on San Ignacio Municipality and Durango State; to the east on Concordia Municipality; to the south on Rosario and the Pacific Ocean and to the west on the Pacific Ocean as well. All this comprises the Mexican northwest Pacific coast with its municipal SEAT at the port of the same name<sup>6</sup>.

6- For further information on Mazatlán history, visit Website: <<http://www.mazatlan.gob.mx>>

7- INEGI, Website <<http://www.inegi.gob.mx>>, online consultation January 25th, 2007.

The 2nd Population and Housing Count in 2005 by INEGI (National Institute of Geographic and Computing Statistics) were of 403,888 inhabitants for this Municipality, 15.5% of the whole State which reaches 2, 608,442 people. In Mazatlán, 198,469 (49.1%) are male and 205,419 (50.9%) are female<sup>7</sup>.

Mazatlán is one of the 18 municipalities that make up the State of Sinaloa. Because of its territorial extension of 3,068.48 hectares, which is 5.26 % of the

State and 0.15 % of the country, it holds the ninth place among municipalities. Article 8th from Police and Good Governance, determines Mazatlán geopolitics integration as follows: it is composed of the city and port of Mazatlán, its divisions, colonies and neighbourhoods, and the Syndicates of El Quelite, Mármol de Salcido, La Noria, El Recodo, Siqueros, El Roble, Villa Unión, El Habal as well as all the police stations, villages, towns and ranches<sup>8</sup>.

The Municipal Civil Service, headed by the Mayor, it is formed by the Secretariat of the Town Hall, Major Office, Municipal Treasury, Secretariat of the President, Controller, Trustee Attorney, Municipal Coordination for Access to Public Information and Directions. Like other municipalities in the country, it has a Cabildo, which regulates municipal life- consisting of 18 aldermen and the Mayor who heads the Collegial Body.

8- Municipal Decree N° 4, Police Bando and Good Governance of Mazatlán Municipality, Sinaloa, 14th December, 1999. Website: <<http://www.mazatlan.gob.mx>>

## **2. Description of the origin and objectives of the programme**

### **2.1. Its origin and background**

One of the main concerns at the start of the first municipal management periods of Licentiate Alejandro Higuera Osuna, Mayor of Mazatlán, for the period between 1999 and 2001, it was to conduct a new legal and administrative structuring of Barandilla Court (hereinafter TB) with a view to seeking a genuine judicial administration. To this end, the Municipal Decree N° 4 modified the Police and Good Governance in Mazatlán, given the need to upgrade the application of sanctions and proceedings at TB as well as the chapter on faults, ensuring expeditious and timely delivery of administrative justice, respecting individual constitutional guarantees. From this reform, the TB achieved autonomy, which decisions were subject to prior orders by the Director of Municipal Public Security.

It is important to note as background, that Municipal administration 2002-2004, initiated by Jorge Rodríguez Pasos, who triumphed with a broad popular support under the symbol of the Labour Party (PT), was marked by a politically unstable administration and, inefficient governance. Proof of this is the fact that Mazatlán had four Mayors during this triennium. Mr. Pasos stayed a few months in power since brutal physical violence was exercised on his wife, and he was obliged to leave, being succeeded by other three Mayors. These constant changes affected public safety and the efficiency sought by the amendments to administrative justice from the period 1999-2001; fact that was reflected in turn in constant changes in the controls of municipal corporation.

Having ruled from 1999 to 2001 and having reformed the TB, and at the fact the from 2002 to 2004, the reforms summoned to the administrative justice were neutralized because of political instability and the practices of new authorities, Mayor Alejandro Higuera assumed in this second period, the realization of this programme as a priority.



The complaints and comments from citizens gathered during election campaign and the reports compiled during the working days of citizen attention to municipal public security reinforced the idea of the Mayor and his team to take up again the changes in the field of administrative justice.

Moreover, factors such as citizens complaints on municipal public security or the doing of municipal justice which, has traditionally consisted of complaints against abuses by preventive agents, arbitrary or unjustified arrests, corruption cases (for example: to pick up detainees randomly), presumptions on criminal complicity and others, were the best motivation for this administration to deploy efforts to advance on the improvement of preventive municipal corporation, particularly, regarding administrative justice.

## 2.2. Description of objectives

Barandilla Court has as its main function to punish offenders to the rules of social coexistence arising from Police and Good Governance; in which compliance perspective this programme objectives were established: a).- To provide greater certainty, legality and efficiency in the implementation of administrative justice through autonomy and professional personnel at Barandilla Court, granted by the Municipal Cabildo. b).-To generate better conditions for the absolute respect to individual grants and human rights of people submitted by a criminal act, transit or other infringement to the Police and Good Governance (hereinafter Bando) before Barandilla Court and c). - To combat influence abuse in the implementation of administrative justice without any distinction, seeking greater transparency of the justice administration system.

## 3. Reforms to Barandilla Court and its current operation

Among the modifications noted, the TB activity is regulated and the mechanisms for member appointment, who to date are designated by the Cabildo at the proposal by Mayor; the Court main authority and members, and who were previously designated by the Mayor at the suggestion of the Public Security Director. Along with the new Court designation system, autonomy has been granted, allowing judges to decide on those who misbehave or commit faults to the cited Bando, without the interference of other commands. This has enabled the expedition of resolutions through the immediate start of administrative proceedings and making of decisions; monitoring the offender awareness of the fault or offence committed; as well as the right to make a phone call and self-defence or being defended by a third party; facilitating the communication with family, lawyer or any person who assists him.

As part of the proceedings, the Court makes the offenders know the different options that exist for the performance of the fine, and their right to

appeal the judgement to the Town Hall; in the same way the Court is obliged to refer to the Public Ministry those allegedly responsible of committing any offence as established by the State Criminal Code or the Federal Criminal Code.

As part of the proceedings, it is carefully tracked the detainee remission, release, penalty implementation, provision for criminal act and transit; whose responsibility lies on the TB Coordinator, who supervises judges performance. This same officer introduces the adequate measures for the TB proceedings to comply with the law; to respect the guarantees of individuals, and the necessary information be forwarded- as required by Public Ministries, in relation to the suspected offenders; he also receives complaints about possible misconducts in which judges or other Court personnel may incur, applying the disciplinary measures deemed appropriate. At present, there is a genuine autonomy of decision and the compliance with citizen rights is monitored; the use of audio and video systems 24 hours a day has also helped decrease the filing of citizen complaints.

The restructuring and changes to administrative justice promoted in the first period of Alejandro Higuera Osuna ruling, and truncated in the period 2002-2004 for the reasons explained before, forced the Mayor and his team to put more emphasis in the second 2005-2007 municipal management. Among the implemented actions, support to Court was reinforced from 2005, the year of construction of the new building to dignify the function, personnel and people attending the facilities. Besides, a complete computer system was acquired in which detainees' statistics files are recorded, as well as traffic violations and other facts. These facts have facilitated the Court to have access to statistics information.

That same year, a modern equipment of cameras and videos was installed, composed by eight cameras and two monitors strategically located at the entrance door, antechamber, Barandilla judge office, TB secretaries office, Court Secretaries Reception, women cells corridors, men cells corridors and surveillance areas. The new video system has permitted to follow the detainee entry or release step by step, where the respect for their individual guarantees is supervised, the right to be heard, the right to be assisted by a counsellor or representative, and the prerogative to communicate with their family through a phone call. The recording of this video system lasts up to 20 days engraving. This allows the immediate availability of a recording in case any citizen denounces being deprived of his rights by an officer in the interior of the building, accounting for the facts or clarifying the incident. The equipment operation has been shown to the assessment team by the TB Responsible. This new equipment and service improvement have contributed to the absence of complaints in the years 2004 and 2005, against corporation elements according to statements and internal signage registration provided by the TB Responsible.

As part of their privileges, the detainees enjoy three daily meals, medical assistance 24 hours a day; Psychology & Social Work Departments Service

integrated to the Court, scheduled on Monday through Friday from 07:00 am to 09.00 pm, Saturdays full day, and Sundays from 07:00 am to 02.00 pm. Both departments provide psychological counselling consisting of family therapy for drug problems, alcohol abuse, domestic violence, conciliations hearings for neighbourhood problems, transfers to shelters, rehabilitation centres; Detainees are also supported in case of fine payment proceedings, and offered to make further phone calls to family members.

The key actors in the process of administrative justice are: The Mayor who appoints the TB Head; the Cabildo who adopts legal reforms and approves the budget for the programme operation; law violators of two types: those who commit ordinary crimes or federal misdemeanours, and those who commit crimes to the Bando; the Commission of Honour and Justice (CHJ), dedicated to hear and rule on complaints against elements of the corporation made by citizens or law offenders; the Human Rights Commission that occasionally visits the Court but lacks of a permanent follow-up and observation policy on the programme; and Barandilla Court with its structure described below.

The TB serves with autonomy in decision-making with respect to the Directorate of Public Security and Municipal Transit (DPSMT) or other authority, enabling it to act impartially and in strict accordance with law. According to Article 106th Bando is designed by the Cabildo at proposal made by the Mayor. It currently counts on Barandilla Court Coordinator, 5 Judges, 5 Transit Affaire Secretaries and 13 Secretaries of Criminal Facts; a total of 23 lawyers to impart administrative justice. It also has 2 Psychologists, 5 Social Workers, 7 writers (Secretaries to Secretaries of Criminal Facts), and 20 Municipal Policemen in First and Second Cells' areas for Surveillance.

## **4. Assessment on the impact of changes to Barandilla Court**

The Assessing Team visit to DSPM facilities in Mazatlán, consisted of several interviews: with the Court Head, José Ramón Gómez Mendoza, with Mr. Raymundo Rocha, Municipal Inspector, and several members of the organization operating in: receiving and recording entries, police, medical examination, psychology, social work, fingerprinting, video responsible and others. As evidence for the visit, the observations below may be proof of the programme impact:

- 4.2. The Court Head handed the assessors the statistics reports called Comparison of adult offenders for the period January to August 2004-2005 and Comparison of adult offenders for the period January to August 2005-2006 which resulted in the following specifics:
- 4.3. In 2004, TB received 7,180 detainees; in 2005, the amount raised to 8,331 (16.03 % increase). In 2006, 9,199 detainees were registered- 10.41

% increase with respect to 2005; and, in comparison to 2004, under the previous ruling and before the effective programme operation, a 28.12% increase was detected<sup>9</sup>. (See Table 1)

- 4.4. The increase in the uptake of offenders may be open to different interpretations ranging from aggravation of social problems, increase in drug trafficking aftermath and consequently, drug addiction, crime, greater corporative efficiency, fight against negative influence, corruption and others. From the programme characteristics and objectives, Municipal Public Security, and Municipal Justice Implementation (derived from Municipal Development Plan 2005-2007 guidelines) and the improvements made, it could be asserted that a 28 % increase in offenders arrests between 2004 and 2006, is highly related to efficacy of the programme under evaluation.
- 4.5. On the other hand, the Comparison of offenders quoted before, provides statistic data on income entries in the compared years, as a result of fees imposed by the Police Bando. In the period from January to August; the corporation had revenues of \$542,453.80 pesos and for the same period in 2005, it raised to \$1, 040,466.98 (91.8% increase). In 2006, revenues amounted to \$ 1, 257,865.83 - 131.9 % increase over 2004. From the above it follows that without a programme explicit objective; there was a visible increase in the uptake of resources as a result of increased arrests. This was a side effect of the obtained results, favouring – to a lesser extent- the Town Hall own resources entry.

9- Note: The data displayed by the Barandilla Court Head in the statistics reports of offences from 2004 to 2006, were filed from January to August because the 2006 report closed in August that same year.

Table 1

COMPARISON OF OFFENDERS TO POLICE BANDO AND GOOD GOVERNANCE IN MAZATLAN MUNICIPALITY, SINALOA, 2004 TO 2006			
CONCEPT	2004	2005	2006
TOTAL DETAINEES PER PERIOD	7,180	8,331	9,199
INCOME FROM TOTAL DETAINEES	\$ 542,453.80	\$ 1,040,466.98	\$ 1,257,865.83

Source: Barandilla Court Statistics, Mazatlán Municipality, Sinaloa, December 2006. The estimate data covers from January to August for each year cited.

- 4.6. Regarding the development of human rights, we have the following results: While in 2004 the Complaints Reception Unit of Honour and Justice Commission registered 6 complaints against public servants, in 2005 and 2006 there are no registered complaints to initiate administrative proceedings against elements of the Preventive Municipal Corporation. This fact shows apparent significant advances in this programme. However, it is stated that no previous years' complaints were registered, and thus further data inquiry should be made up the issuing of the present report.

This fact is confirmed by the absence of complaints to the Inspectorate of the South Region State Human Rights Commission of Sinaloa based in Mazatlán, presided in the analysed period by Rafael Durán, who performed various verification visits to detention cells, in addition to having been invited by the Court Head to verify the remodelled areas. Based on the knowledge one of the participants in the present study has on the town, it may be asserted that at least in a public and notorious way, there were no registered complaints in the past years, against Barandilla Court personnel as regards systematic violation of human rights to the detainees who entered the organization.

A more objective assessment passes through an interview with the programme direct beneficiaries, in the present case, being Law offenders temporarily located in detention cells. It was difficult to compare the beneficiaries' perception before and after operating the programme, so the revision was focused on the other elements analyzed here. The only element for problem objective assessment could be print media, where in the last two years of present administration there has not been an atmosphere of constant criticism or signage on allegations to human rights or individual guarantees violations as regards TB operations. There is no record of outstanding complaints in the same period either, against Municipal Police linked to TB operations, presented to the Honour and Justice Commission of the Municipal Public Security.

## **5. Learning and final recommendations**

### **5.1 Learning**

One strength of this initiative as translated into the Municipal programme is the fact that it was prompted by Mayor Alejandro Higuera Osuna to limit power abuse by local Police elements linked to TB operations, and to seek effective ways to combat corruption and negative influence when arresting offenders to the Bando. It also shows willingness to improve facilities, staff treatment to offenders, modernization of equipment in the service of the Municipal Public Security and, Municipal Justice in particular.

As potential learning derived from the programme, the assessment team arrived at the conclusion that the regulatory reform gave autonomy to the TB as regards the Municipal Public Security Director, on whom it depended before the amendment. The Municipal Police Director subordination and the body responsible for typifying the offenders' behaviour and rating offences where municipal corporation elements are involved led to an ambiguous risky situation at the judge decision-making.

In reviewing the factors involved in the process outlined here, it might be interpreted that the increase of offenders in 2004 in comparison to 2005 and 2006, was not due to the increase of crime and antisocial behaviour but a result of improvements. In that sense the substantial increase in revenue for the

municipality as cited in Table 2, is related to the improvements in programme performance. The use of a video system to track detainees from entering to leaving favours conditions for the respect of detainees' individual guarantees.

The modifications and equipment operated in the present programme provide instruments that handled with transparency and efficiency would help reduce negative influence and corruption in Municipal Preventive Corporations as well as in design and implementation of adequate public policies in the fields of Public Security and Municipal Administrative Justice.

In general, these might be some of the elements of learning for other municipalities, trainers, academics and citizens interested in Municipal Administrative Justice.

## 5.2. Final recommendations

Among the observations and recommendations to improve the programme quality, and in conformity with observation, the DSTM personnel of this municipality has had little turnover and poor training for the development of this initiative. The investment made in the programme that barely exceeds 600,000 pesos is not a big outlay for a town the size of Mazatlán; so an expanded investment is required for this kind of programme and, above all it is necessary to include these actions in a Municipal Public Security and Administrative Justice programme to broadly cover actions for the prevention of crime and offenders to the Bando, though the constant circulation of this social coexistence regulations; and launching other initiatives or actions altogether with the Town Hall and the Organised Civil Society to advance in the consolidation of a culture of Law obedience.

Greater efficiency and professionalism, as highlighted among the programme objectives, could be complemented by the development of a System of Civil Service in Municipal Police that can be sustainable by actively involving authentic citizen participation, now absent. A very courageous and innovative aspect of the programme has been to film and record the whole process of admission, registration, confinement, consignment or exit in case of violation of the Law. The programme results are mainly received by people who have no means to defend themselves from injustice or mistreatment, and are unable to promote the benefits they gain. Therefore, organized citizenry together with Municipal Authority should work to position the programme as required.

On this latter point, an organized participation of civil society is advisable to monitor programme operation and strengthen the presence and monitoring of the Regional Inspectorate of the State Commission of Human Rights. A policy open to society would help to the transparency and efficacy of objectives achievement and to the consolidation of a well-founded Administrative Justice and Security as well as a Public Policy. Finally, it is recommended a systematic and comprehensive broad dissemination of Police Bando, in local media,

educational institutions, workplaces, civil society groups and organisms, and generally among the majority of port citizens aiming at education and respect for the Law. •

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#### References:

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# PERU - THE “COLECTIVO IMPULSOR” FOR THE MONITORING OF RECOMMENDATIONS OF THE COMMISSION OF THE TRUTH AND RECONCILIATION (TRC) IN HUÁNUCO

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At midday on Wednesday 22nd February 2006, an unusual event occurred in Cochachinche, Huácar district, Ambo province, Huánuco department. Approximately 100 people gathered in the hamlet, among them, the province Deputy Mayor, the District Mayor, the Representative of the Ombudsman's Office and a few journalists with television cameras. In addition, a small group of people – a dozen men and women, youngsters and elders, all of them wearing blue polo-neck T-shirts, with the legend “With Justice and Reparation” at the front and “Colectivo Impulsor Post (TRC) Huánuco” at the back– which attracted the spectator's attention.

The reason for their presence was Christian burial of the remains of Ruperto Lliuya Salcedo, his sister Eloisa and her husband Pablo Muñoz Barrueta, as well as two people who could not be identified. All of them were killed in July 1989, allegedly, by an Army patrol accusing the of being members of Sendero Luminoso, and exhumed 16 years later in September 2005, from a mass grave in the peaks of San Cristóbal and Nacuay, localities belonging to the District of San Rafael in Ambo.

A couple of hours before, a small ceremony had been conducted in the park of the provincial capital, in which it was issued the decree of the City Hall N° 001-2006-MPA, whereby the Provincial Municipality of Ambo decreed February 22 “Day of Reconciliation and Solidarity with the Victims of the Internal armed Conflict in the Province of Ambo” as a symbolic act of recognition and dignity to the victims of the internal armed conflict.

Exhumations and acts of symbolic reparation for the victims of political violence are some of the recommendations that the Commission on the Truth and Reconciliation Commission (TRC) submitted to the Peruvian government in its final report, handed to the highest state authorities on 28 August 2003. The “Colectivo Impulsor” for the Monitoring of the Recommendations of the TRC in Huánuco – that is the full name of the organization that brings together people with blue polo-neck T-shirts - has been devoted for two years to the monitoring of these recommendations and to the promotion of a culture of peace, in one of the regions most affected by violence: the department of Huánuco. The experience submitted to the contest “Joining efforts”, entitled



“Inter-agency and social efforts and for the promotion of a culture of peace in n Huánuco”, was one of the three special honours awarded by the jury among the ten initiatives selected as winners of the Call 2005.

## The socio-political context: department of Huánuco

Before presenting the association, it is important to briefly consider the context in which it operates. The department of Huanuco is located in the central part of the country, between the Cordillera Occidental and Ucayali River. The height of the territory ranges from 80 m above sea level at the Amazonas rainforest to 6,617 m above sea level at Yarupajá hill, the second highest peak in Peru. Its capital city, with the same name which is at about 1.900 metres high; was founded in 1539, under the name of León de Huánuco, by the Spanish commander Gómez de Alvarado y Contreras in the pampas of Huánuco Viejo, former Yarowilca county, to be transferred after to the Huallaga Valley because of the continuous attacks of Yarowilca army.

Graphic No. 1

### The provinces of the department of Huánuco



Despite the exponential growth of the most important cities– Huánuco and Tingo María– in the last ten years, the department rural population still exceeds 60 per cent. According to official statistics, such as the INEC , its most important activity is agriculture, combined with livestock. The products depend on the altitudinal: in the punas predominate tubers (potato, olluco, mashua) and

grains (maize, wheat, barley, quinoa, etc). In the high and low jungle, fruits are grown: bananas, cacao, coffee, and yucca; and in the valleys fruits, vegetables and sugarcane. However, the most important crop in the department, both in economic terms and in relation to its social implications, barely appears in the official information: coca, whose area under cultivation has increased sharply in recent years.

According to estimates by the Office on Drugs and Crime of the United Nations, almost 17 thousand hectares were cultivated with coca in the Upper Huallaga in 2004. Of the more than 10 thousand tons produced in the same year, only 27 were sold to ENACO, which shows that over 90% of the production goes to the hands of drug trafficking. However, in July 2004, in the midst of riots caused by the growers of the valley of Monzon, in the province of Huamalies, Regional President, Luzmila Temple, passed an ordinance declaring the coca leaf as a “cultural heritage and food safety”. That area is a major supplier of drug trafficking.

However, the movement of massive amounts of money that involves the coca boom has not led to a substantial improvement of the population; Huanuco remains one of the poorest departments of Peru, as evidenced by the Peru Poverty Map 2000 by FONCODES:

**Table 1**  
**Key indicators as poverty levels of the departments**

Poverty level	Population			Standard of living			Nutri			Health			Education			Road I Accessibility (N° districts)			Without service			
	N° Inhabitants (thousands)	Poverty index	HDI *1997	Malnutrition rate	% Population deficit posts	% School population with classroom deficit	Very difficult	Difficult	Accessible	Population without water	Population without drainage	Population without electricity										
Very poor																						
Huancavelica	427	51.7	0.41	45.7	38.3	9.5	18	40	35	23.4	84.8	54.4										
Cajamarca	1,395	51.1	0.49	40.9	54.6	6.5	17	71	39	30.2	75.7	78.6										
Loreto	860	50.3	0.58	37.2	52.4	18.1	42	1	4	68.1	71.6	46.2										
Amazonas	399	49.4	0.53	40.1	29.9	5.2	23	36	24	21.6	67.4	77.5										
Huánuco	762	48.8	0.48	38.1	59.6	16.4	12	33	29	45.1	69.9	65.6										
Apurímac	423	48.1	0.47	43.2	42.6	5.8	10	40	30	32.0	71.3	45.8										
Ayacucho	527	47.2	0.44	40.3	29.4	11.0	24	48	37	24.7	72.9	60.3										

Source: FONCODES, Poverty Map 2000

According to this Poverty Map, only one of the provinces, Leoncio Prado, has a “regular” standard of living, while the others range from poverty to extreme poverty. Huacaybamba and Pachitea would be the second and third poorest among the 194 provinces of the country:

**Table No. 2**  
**Poverty rates in the provinces of Huánuco department**

PROVINCES IN EXTREME POVERTY				POOR PROVINCES			
N°	Province	Department	Rate	N°	Province	Department	Rate
1	Atalaya	Ucayali	72,2	80	Ambo	Huanuco	47,1
2	Huacaybamba	Huanuco	71,2				
3	Pachitea	Huanuco	67,8	125	Huánuco	Huanuco	40,6
11	Yarowilca	Huanuco	61,7				
VERY POOR PROVINCES				PROVINCES WITH REGULAR STANDARD OF LIVING			
15	Dos de mayo	Huánuco	59,9	148	Leoncio Prado	Huánuco	36,8
25	Huamalies	Huánuco	57,1				
31	Puerto Inca	Huánuco	56,2	PROVINCES OF STANDARD OF LIVING ACCEPTABLE			
36	Lauricocha	Huánuco	55,5	193	Lima	Lima	18,6
				194	Ilo	Moquegua	18,2
50	Marañón	Huánuco	53,2				

Source: FONCODES, Poverty Map 2000

Each map has its own Poverty indicators, and therefore, their biases. If FONCODES locates the department of Huánuco fifth in its scale of poor departments- over Huancavelica, Cajamarca, Loreto and Amazon- according to the National Household Survey for the fourth quarter of 2001 (ENAH0 2001-IV), Huánuco is the second poorest department, with an incidence rate of poverty of 78.9% and 61.9% in extreme poverty. Only Huancavelica has more devastating indicators.

At the same result comes the “Peru Human Development Report 2005” by PNUD, in which Huánuco ranked 24 among the 25 departments of Peru (including the constitutional department of Callao):

Table No. 3  
Human Development Index in Huánuco

Province	Population		Human Development Index		Literacy		Educational attainment		Household Income per capita	
	habitantes	ranking	IDH	ranking	%	ranking	%	ranking	N.S. x mes	ranking
Huánuco	285.288	14	0,4920	134	79,4	123	67,7	137	162,4	177
Ambo	71.505	79	0,4455	169	76,1	141	56,1	180	131,4	188
Dos de Mayo	47.702	125	0,4619	160	87,7	107	65,0	147	133,9	184
Huacaybamba	21.256	171	0,4483	168	67,7	171	65,7	144	123,7	192
Huamalies	69.301	83	0,4715	150	79,5	122	67,6	138	132,6	186
Leoncio Prado	115.317	53	0,5483	75	86,9	73	79,1	93	180,7	157
Marañón	24.896	164	0,4249	186	67,7	172	56,0	182	127,6	191
Pachitea	64.506	99	0,3675	194	62,2	186	38,7	194	118,3	193
Puerto Inca	48.082	123	0,4366	177	88,2	64	52,9	185	115,9	194
Lauricocha	37.876	140	0,4668	154	88,8	61	64,1	152	138,6	182
Yarowilca	39.975	137	0,4260	185	64,5	183	57,1	177	128,5	190
Dep. Huánuco	822.804	12	0,4760	24	78,8	21	64,3	24	147,3	24

Source: PNUD, Peru Human Development Report 2005.

It is remarkable that in this report Pachitea province lies in last place among the provinces of Peru as regards the index of human development and educational attainment, and in the penultimate place in family income. In the latter category, the *huanuqueñas* provinces rates are particularly acute: Yarowilca, Marañón, Huacaybamba, Pachitea and Puerto Inca hold, in that order, the last positions throughout the country. It is not exactly what one expects in a department whose main news is the drug trade.

According to a study by the Pro Decentralization Programme (PRODES) of the American Cooperation Agency USAID<sup>2</sup>, the population of Huánuco was the least informed among seven departments surveyed<sup>3</sup> in 2005; only 4.9% of those surveyed knew the name of the Minister of Economy and the 35.4% the names of the congressmen elected by his department. Between 2003 and 2005, the percentage of those who opt for authoritarian rule has increased from 11 to 29%; only 15% consider that population participation and 14% that respect for human rights are prerequisites for democracy to work well (Ibid.). The absence of rule, especially in the coca growing areas is impressive. According to La República, May 18 2005, the then Executive Director of the National Commission of Development and Life without Drugs (DEVIDA), Nils Ericsson, admitted that the district was a “liberated zone” that the State could not control.

2- See: <<http://www.prodes.org.pe/pdf/Caracteristicas%20de%20la%20oblaci%C3%B3n%20estudiada.pdf>>

3- San Martín, Huánuco, Ucayali, Pasco, Junín, Ayacucho y Cusco.

Also, the level of violence that still reigns the region is alarming it was sufficient to give a look at the headlines of the local newspapers for a couple of days of field work in February 2006 to be aware of it: "Ronderos and police face suspected subversives in the heights of Chaulán" (*Ahora* Newspaper, 2.22.2006), "Police and soldiers fought tough battle against criminals" (*Correo* Newspaper from Huánuco, 2.23.2006), "50 subjects took town of Ambo. Terrorize criminals" (*Correo* Newspaper, 2.24.2006), "Army deserters form band of cattle rustlers" (Regional Newspaper from Huánuco, 2.24.2006), "13-year-old boy dies in clash against cattle rustlers and Police" (*Ahora* newspaper 2.24.2006), "Ronderos burned Bolognesi and razed crops" (*Correo*, Newspaper 2.26.2006).

This is structural violence, which mixes political, criminal and everyday aspects. According to the Demographic Survey of Family Health (ENDES) 2000, Huánuco is the department with the highest incidence of domestic violence, which affects 28% of the households. On the other hand, many authorities are seriously questioned, and sometimes the blood reaches the river. In January 2005 the Mayor of the district of Amaryllis was murdered. In June of that year there was a clash in the district of Chaglla, Pachitea province, between the public and supporters of the Mayor forcing him to abandon the town and dispatch in Huánuco<sup>4</sup>. At the same time, cattle rustling increased dramatically and are one of the main problems in the region.

To all this must be added the vestiges of the political violence of the nineties. The Alto Huallaga is one of the few areas where Sendero Luminoso is still active. In December 2005, after an ambush in the jungle area of Aucayacu where eight policemen were killed, the government decreed a state of emergency for 60 days in Alto Huallaga, which includes the *huanuqueñas* provinces of Marañón, Huacaybamba, Leoncio Prado and Huamalies. In February 2006, in an operation of the National Directorate of Special Operations (DINOES), of the National Police, Héctor Aponte Sinarahua ("Camarada Clay") was caught, the military commander of Sendero Luminoso in the area and likely responsible for ambushes; but the political command (comrade Allipio) is still free.

## Huánuco during political violence

Huanuco hosted the northeast regional office of the Commission for Truth and Reconciliation, which covered the department of San Martín, Ucayali and Huanuco. In This office there were 3.275 dead and missing people between 1980 and 2000, most of them residents of the localities of Alto Huallaga, one of the regions with the highest rate of political violence.

The raids of Sendero Luminoso in the mountains of Huánuco began in the early eighties from the neighbouring department of Pasco, initially limited to proselytizing work mainly among teachers and students. The first dead of the war in Huanuco occurred in June 1983, when hikers assassinated a telegraphist and the Secretary General of the People's Action District of Colpas, province of Ambo. The constant ambushes and attacks in subsequent years forced the

Police Force to retreat, allowing the insurgents to form a cordon between the Department of Pasco and the *huanuqueñas* provinces of Ambo and Dos de Mayo, and establish some support bases and popular committees. Between 1988 and 1989, the highlands of Huánuco lived violence with greater intensity, until the entry of Army and the Organization of Self-defence Committees caused the retreat of subversives<sup>5</sup>.

The city of Huanuco was used by hikers as a corridor to the coca growing areas of the jungle as a place of refuge. In addition, Sendero achieved a major infiltration and the formation of some frames at the National University Hermilio Valdizán (UNHEVAL). According to information gathered by TRC, Sendero Luminoso activity at university reached its highest levels in 1985, but only in the nineties the disappearance of teachers and students' leaders began. The climate of terror worsened further in 1993, one year after the arrest of Abimael Guzmán, and in 1994, when suspected paramilitaries abducted several students from the UNHEVAL. The same year the rector of the university, Abner Chávez Leandro, was arrested and released a month later. In the following years violence dropped, although Sendero graffiti was seen on the walls of campus buildings until 1998.

However, the most affected areas of the department were the coca growing regions of Huallaga, where the confrontational context facilitated the insertion of subversive groups. Between 1970 and 1980, the state implemented policies to combat drug trafficking through programmes for the eradication and replacement of coca, including Operation Verde Mar II, whose primary targets were the peasant producers.

Sendero Luminoso began its activities in Huallaga in the mid-70's with proselytizing work in schools, obtaining the support of teachers first, then students of secondary and higher education, and finally the leaders of some farmers' committees in Leoncio Prado province and the Monzón district in the province of Huamalíes. Since 1982 it became more common to see Sendero members, particularly in Monzón valley. One of the first armed actions of Sendero in the area was the murder of 19 employees of the Special Project Control and Eradication of Coca Cultivation of the Alto Huallaga (CORAH) in the district of Monzón, November 17, 1984.

From this moment violence did not stop. The year 1986 marks the expansion of Sendero Luminoso armed struggle. This year also began to spread the allegation that there was an alliance between subversion and drug trafficking and drug flights reached unprecedented frequency. Meanwhile, Sendero Luminoso organized its popular committees, first closed and then opened, and managed to establish "liberated areas" in the so-called "bolsones" Cuchara and Primavera. No other region was so long under the rule of Sendero Luminoso.

*"The importance of the Alto Huallaga to understand the process of violence is that it was one of the few places in the country where the PCP-SL managed to dominate a large territory and for a relatively long period of time- between ten and fifteen years-*

5- In 1989, a joint of patrol and Army obliterated a Group of thirty Senderists commanded by "Comrade Nelly" in Rumichaca.

6- Commission of Truth and Reconciliation, Final Report, Book IV, Lima: CVR, 2003, p. 380.

*establishing a territorial network that was the administrative apparatus of popular committees and based forces for organised areas. Meanwhile, the mobile network was the main force and the local force, which comprised the popular guerrilla army”<sup>6</sup>.*

Between 1989 and 1994, the Armed Forces have carried out various operations that produced allegations by extrajudicial executions, forced disappearances, torture and rape, as the operations “Cuchara”, “Paraíso” and “Aries”.

As noted in their final report of the TRC, the main victim of these operations was the civilian population:

*“... the implementation of the operations “Cuchara”, “Paraíso” and “Aries” ... were based on the misconception that everyone who lived on the left bank of the river Huallaga were hikers (Senderists), seriously affecting the civilian population who did not participate in the hostilities. These facts constitute a situation contrary to the principles and rules of international humanitarian law”<sup>7</sup>.*

7- Commission of Truth and Reconciliation, Final Report, Book V, p. 389.

The worst hit province was Leoncio Prado, with 1420 fatalities reported to the TRC. Just since 1996 violence began to decline, but as mentioned above, it has not ended yet. It is worth noting that the majority of crimes committed in the Alto Huallaga in 20 years of violence have gone unpunished and dozens of perpetrators of crimes against humanity are free. Here is one of the challenges for the followers of the recommendations of the Commission for Truth and Reconciliation.

## The TCR and its recommendations

The Commission for Truth and Reconciliation in Peru was the product of a particular situation: the collapse of the impetuous Fujimori regime and the equally sudden democratic opening. While in other countries such as Chile or Guatemala for example, the Armed Forces negotiated the democratic transition and kept much of their prerogatives, in Peru representatives of the former government fled the country or landed in prison. From one moment to another unthinkable political opportunities were opened; the simple fact that in August of 2001 the country should have a Truth Commission was something completely unthinkable only a few months earlier.

The Supreme Decree of the transitional government that presided Valentin Paniagua, which created the Commission for Truth and Reconciliation, gave him a broad mandate: to contribute to the elucidation of serious crimes and human rights violations, “attributable both to terrorist organizations as State officials “(DS 065-2001-PCM), as well as identifying the causes and the process of violence that affected the country for twenty years and develop viable proposals for reparation, justice and reconciliation. This mandate was explicitly approved by the major presidential candidates during the 2001 elections; all committed themselves in writing to comply with the Commission’s recommendations, if elected.

The TRC collected nearly 17000 testimonies of victims, both at five sites (Lima, Ayacucho, Huancayo, Huanuco and Lima), or through mobile teams

that were deployed to rural villages in almost all departments. In addition, almost 2,000 open interviews have been carried out, half of them imprisoning with subversive prisoners. The TRC was also the first Truth Commission in Latin America which conducted public hearings, although it had no mandate to grant amnesties as it had the South African commission. In-depth studies on 23 stories of violence have been conducted; the first exhumations on clandestine graves in Chuschi and Totos (Ayacucho) have been executed in coordination with the office of public prosecutors; and files on 47 judicial cases that were handed over to the Public Ministry have been developed. The approximate cost of the work was 13 million dollars, 55% from the state and 45% of international cooperation.

The level of horror discovered exceeds the most pessimistic expectations. Based on the 23969 Peruvians reported in the testimony as dead or missing, the TRC estimates that the total number of victims is 69280 people, including civilians, Police Force troops, subversive and members of the Self-Defence Committees. Over 60% of them were rural dwellers, mostly farmers, with over 90% living in the impoverished Andean and Amazonian departments, with over 70% was Quechua or another indigenous language as their mother tongue, but, according to national census 1993, less than 20% of the country's inhabitants speak that language. If violence had had the same intensity throughout the country, 1.2 million Peruvians would have died; and if violence had had the same results in Peru as in Asháninka Amazonian ethnic group, more than 2 million would have died<sup>8</sup>.

The result of the work of the TRC is a voluminous Final Report, with nine volumes and a CD with statistical data. In the penultimate volume of the report, the Committee made a series of recommendations to the State in terms of social and economic policies aimed at repairing the victims' families' damage caused by human rights violations.

These recommendations revolve around three axes: institutional reforms, repairs and anthropological-forensic investigations. In addition, it is recommended a series of mechanisms for the monitoring of recommendations.

The recommendations related to institutional reforms are grouped into four broad areas: recommendations for strengthening the presence of democratic authority throughout the national territory, to strengthen democratic institutions, to reform the justice system and to reform education.

The recommendations of repairs are reflected in the Comprehensive Plan for Repairs (PIR). The TRC is based on the premise that the Peruvian State has a legal and ethical responsibility to all the victims, based on the International Law of Human Rights, which establishes a State responsibility when it does not fulfil its obligation to respect and enforce human rights internationally recognized. This obligation includes the duty to provide compensation to the victims, which –as the State is guarantor of social and public order – extends to the human rights violations at the hands of private actors, including terrorist and subversive groups. Consequently, the TRC recommends establishing equal

8- TRC Final Report, Book VIII, General conclusions.



treatment to all victims, whether they are victims for acts committed by agents of the State or by subversive terrorist groups.

The PIR is divided into several categories: (i) Symbolic reparation programme, which in turn consists of several components such as gestures and acts of public recognition; (ii) repairs to health, that focus on the mental and physical damage from a comprehensive perspective; (iii) repairs in education, to facilitate and provide new or improved access opportunities to people who, as a result of the internal armed conflict, had missed the opportunity to receive proper education or to complete their studies; (iv) a civil rights restitution programme; (v) individual and collective economic reparations and, (vi) a National Plan for Forensic Anthropological Research for the 4,644 burial sites that had been recorded throughout the country.

The recommendations show that the TRC has interpreted its mandate in a comprehensive manner, with a political vision; reparations for the victims and reconciliation are understood primarily as a contribution to the consolidation of democracy, “it is not only a problem of roads, but mainly from political and civic integration”<sup>9</sup>. The leitmotif of the report is the (re) establishment of the social pact:

“The PCR proposes to develop certain symbolic actions that make up a set of civil rituals that, on the one hand, post to the refunding of the social pact, and on the other, sep to establish milestones that are representative of the will of the State and society and that there is no recurrence of violence and violation of human rights as those occurred between 1980 and 2000”<sup>10</sup>.

Complying with this objective is a daunting and long-term task, which requires a process of negotiation to achieve the political will of all those involved. Especially in a very fragmented and yet so violent context as the one we have just described on the above pages, it is not expected to make a great leap from one moment to another. In such a context, the only way to achieve the social pact is by doing “a work of ants”, as done by Colectivo Impulsor.

## The Colectivo Impulsor of Huánuco

During the two years of its operation, the Commission for Truth and Reconciliation has always sought alliances with other institutions committed to the issue of human rights. In line with this policy, a support Group for the TRC was formed in Huánuco conformed by the Ombudsman, the Bureau of Negotiation for the Fight against poverty and the two NGOs: Peace and Hope Association (Asociación Paz y Esperanza) and Law Association Pro-Human Dignity (Asociación Jurídica Pro-Dignidad Humana) (AJUPRODH). After the Final report delivery, this group did not dissolve, on the contrary, more organizations were convened and the Colectivo Impulsor for Monitoring of the Recommendations de la TRC came into being.

The Comisión for Thruth and Reconciliation was created by the State with a specific temporary purpose, and ceased to exist on August 31, 2003. A

9- Commission of Truth and Reconciliation, Final Report, Book IX, Lima: CVR, 2003, p. 102.

10- Hatun Willakuy. Commission of Truth and Reconciliation: Final Report, Abridged version. Lima 2004, p. 419, emphasis added.

comprehensive plan to compensate victims and for reforming state institutions had been delivered, but the respect for these recommendations depended entirely on the political will of government. Three months after receipt of Final Report, November 21, 2003, President Toledo sent a message to the Nation, in which he apologised in behalf of the State, to the victims of violence and terror, and announced the implementation of the Peace and Development Plan, which would amount to 2,845 million for the implementation of projects for reconstruction and development in areas with a high incidence of violence. First, the department Peace and Development Plan II for Huánuco, Pasco, Junín, San Martín and the province of Padre Abad in Ucayali, would be decreed. In addition, Toledo announced the attention to collective reparations for the victims, as an attempt to coordinate public investment in areas with high incidence of violence.

The most significant element of Toledo's speech is probably its symbolic content, as the president of the Republic acknowledged the work of the TRC and expressed the political will of the State to fulfil its obligations to the victims. On February 5, 2004 the "High Level Multisectoral Commission responsible for monitoring the actions and policies of the State, in the fields of Peace, Collective Reparation and National Reconciliation" (CMAN) was established, to design the national peace, reconciliation and reparation policy.

However, despite expressions of goodwill on the part of government, in the regions affected by violence, which are also the poorest in the country, there were a number of problems. On the one hand, there are still large segments of the population who had never heard of the TCR let alone the Final Report and its recommendations. On the other hand, there is the fragmentation of the State and the bureaucracy that generates a myriad of obstacles to any initiative, no matter how well-intentioned it may be.

The first activities of the Colectivo Impulsor focused, then, in the dissemination of the TRC Final Report and the awareness of local authorities to commit themselves to its recommendations. Members of the Colectivo Impulsor recall that

*"... There was much resistance at the time, it has been relatively difficult. It is a sacrifice to make them understand that this is a shared responsibility, not only of the central government but also of the local governments and sectors. It is pretty tough because there is not much interest and openness; it is necessary to influence and insist to achieve something. That is exactly what we are doing"<sup>11</sup>.*

To locate the issue of reparations in the public consciousness, the Colectivo has performed an impressive amount of activities. Probably most of them were symbolic, such as the pilgrimage to the cemetery, the presentation of flowers to the victims of violence, or the civil parade in the Plaza de Armas of Huánuco. The authorities of the Local Government, the Municipality, Education and Health sectors, the Judiciary and the churches were invited to participate and to generate reparation proposals. Public forums on truth and justice were organised; a Comprehensive Plan for Repairs was presented at the

11-The quotes are taken from interviews we had with members of Colectivo Impulsor.

Annual Congress of Local Authorities of the Macro Central Region a public hearing on the National Human Rights Plan was conducted. At the same time, the issues of action have been expanded, as the issue of culture and peace has been included in a broader sense.

Through its activities the Colectivo has become a *huanuqueño* public space. At the same time, it has grown since new institutions were incorporated. The former general coordinator of the TCR in Huánuco, for example, has been integrated, first as RAP representative and, then, when this was dissolved, as FONCODES representative; when the issuing of this paper (March 2006), he held a position at the executive secretariat of the Colectivo. Some civil organisations such as the bar Council have been incorporated, and there have also emerged some institutions as the NGO *Instituto Regional para la Paz –IREPAZ-* (Regional Institute for Peace), formed in 2003 with the aim of promoting a culture of peace in the department. The NGO Qararishun is also new; just a couple of months old and it is due to the split of AJUPRODH. For the affected people, in 2004 the Regional Coordinator of Affected has been formed, bringing together 21 organizations which are represented in the Colectivo. In March 2006, the Colectivo was formed by 14 organizations, including private and public ones:

**Table 4**  
**Members of the Colectivo Impulsor**

Instituto Regional para la Paz (IREPAZ)	NGO
Asociación Paz y Esperanza	NGO
Qatarishun	NGO
Alto Huallaga Human Rights Commission (CODHAH)	NGO
Caritas	NGO
Munired	NGO *
FONCODES	State
Universidad Nacional Hermilio Valdizán (UNHEVAL)	State
Negotiation Bureau to Combat Poverty	State
Chamber of Commerce	Civil Society *
Bar Council	Civil Society
Coordinador of the Affected	Civil Society
College of Sciences	Private School
Polémica	Local TV programme

\* = have no active participation

However, this table needs some comments. First, the contribution of the associations' members to the Colectivo is not equitable. The NGO Munired and the Chamber of Commerce, as the table shows, are a way to virtual partners, without active participation. Of the rest, most are occasionally involved, but there are two or three "strong" partners that somehow define the progress of the Colectivo; they are the NGOs IREPAZ and Paz y Esperanza, the Coordinator of the Affected, and FONCODES and UNHEVAL state agencies.

However this last point also needs precision: the presence of the university and to a large extent FONCODES is due more to personal commitment of a few officials than to a corporate policy. It is true that the Colectivo has reached an agreement with the university to include the culture of peace in the curriculum, but so far it has not been implemented:

*"We managed to form a working commission presided by university, but we also felt that while agreeing to the proposal, there is not much interest in working. We want to regain it this year, including culture of peace not only in the curriculum but in the same structure of university authorities".*

If the presence of UNHEVAL by now is confined to personal commitment, certainly very strong, on the part of the coordinator of the Social Projection, with FONCODES something similar happens. Although the culture of peace is one of the subjects on the agenda of this government agency, the same members of the Colectivo are unsure whether it would participate in the group if the former general coordinator of the TRC in Huánaco were not an official of the FONCODES.

Finally, it is striking the absence of the Ombudsman, one of the funding members of the Colectivo. The split occurred when the head of the office in Huánaco was changed. There were some misunderstandings with the new head officer, but beyond personal disagreements there is a substantive problem: can the State pressed itself? Part of the activities of the Group consist of symbolic acts of protest against the slow pace of state bureaucracy and reported against measures taken by the government, such as the aforementioned declaration of a state of emergency or the same issue of reparations:

*"The subject of reparations is not included in the budgets of public institutions. Then there is a work of advocacy and monitoring we have to do to see that this money that is intended for public institutions, MIMDES, FONCODES, and the Ministry of Labour is being used for the issue of reparations".*

The current Ombudsman considers that the mandate of the institutions contains mechanisms that do not coincide with the methods applied by the Colectivo, such as marching or stands; for her, the Colectivo is civil organisation and considers the Ombudsman its ally, but she prefers not to take part institutionally. "The Ombudsman –she says– cannot strategize with them and then "monitor" itself.

For various reasons then, the presence of the public sector in the Colectivo is quite weak, and perhaps could not be otherwise; not only because the Peruvian government is itself fragile and fragmented, but by the nature

and objectives of the Group which defines as its main objective the monitoring of the public sector. Hence, the relationship with the different State entities that do not participate in the Colectivo depends much on people. The same members of the Colectivo sustain illusions to that respect:

*“The weak side is the State since there is more personal commitment than institutional. It may be that the State as such has a lot of will, but people representing the State- the officials, have no commitment. Aucayacu is the most affected district in the region, and the mayor does not want to know anything about it. So what relationship between State and society can exist”?*

The Colectivo Impulsor is, then, an organisation whose driving force is civil society sectors that seek dialogue with the State; to the extent they achieve this, efforts are joined. But the State is not abstract; in the end it is the official who makes the decisions and this means that relationships are sometimes quite volatile.

The Colectivo considers as its major success the approval of the Comprehensive Plan for Repairs to Huánuco, which they had drafted themselves, by the Local Government in July 2005. This implied an arduous task to convince the directors:

*“A group of members of the Colectivo went to the Regional Council to sustain it, lobbying was a precious means, the affected people themselves have addressed the directors and their friends as well. There were surprising or terrible mixed feelings: having found counsellors, the disagreement of Leoncio Pardo counsellor who voted against as well as the vice president, two or three people who made people hesitate. But finally, the regional PIR was approved at those counsellors session”.*

The regional PIR total cost rises to more than 17 million soles, which should be assigned to the 11 provinces in the region with priority to the most affected districts and communities. The PIR includes five programmes, four of which should be implemented immediately: the restitution of rights, health, education, and collective and symbolic reparations. The individual economic reparations were postponed to be dealt with in the future.

But no actions were implemented when the Regional Government learned that the reparations would affect its own budget. They rather hope (and still hope) additional funds from the Central Government.

“One issue that has not been assumed by the local and regional governments is taking money from their own budgets to make reparations. They believe that the Central Government should assign a special budget for them”.

At the time of preparing this document, the regional PIR was paralyzed. The Deputy Manager of Social Development of the Regional Government recognises that some expectations were difficult to fulfil, “but we have not been economically benefited from the Central Government”. From the Peace and Development Plan II “not a penny” has been received. They are thinking about including some reparation projects in the Participatory budget for 2007, with the limitation that the Regional Government budget is “only for infrastructure”.

Problems such as this reveal the difficulties that the Colectivo has to face and add extra-value to work. Nevertheless, important things have been achieved. Some of them are symbolic as the regional and municipal ordinances that institutionalized August 28 as the Day of Truth, Justice and Reconciliation in Huánaco; others are more specific as agreements with some UGEL to include the issue of the TRC and culture of peace in the curriculum<sup>12</sup>. The training of youth is another aspect of great importance to the Colectivo; on Thursdays they organize “seminars of peace”, which have been forming a core of young promoters.

12- The UGEL of Leoncio Prado also issued a directive that regularises exemptions from payments to victims.

In our view, the greatest success of Colectivo Impulsor is being positioned as a interlocutor for the public sector, with its own voice. The Colectivo is much more than the sum of its members; it is in fact a collective, and the outsiders we could interview perceive it as such. In addition, it has succeeded in establishing a radius of action that is not confined to the city of Huanuco and its environs, but has members with outstanding presence in the conflict zone, which is the Alto Huallaga.

Obviously there are still many challenges ahead, such as to include the topic of reparations in regional, provincial, and district Participatory Budgeting; The implementation of TRC recommendations about education; Judiciary reform; require more commitment on the part of the university, where new pro-Sendero groups are said to be forming; the strengthening of the organizations of the affected people; and perhaps most important:

*“Building a culture of peace in times of war and, in our case in the midst of war... how to prevent it from happening again”.*

The strengthening of citizenship is a process that heavily depends on the particular conditions of the context; and the context found by Colectivo Impulsor is a very difficult one. Having assumed such a context makes Colectivo Impulsor an innovative and courageous actor.

## Some final reflections

In these past two years the famous phrase of the Spanish-American philosopher George Santayana has been cited time and again: “people who forget history are condemned to live it again”, to defend the TCR against its adversaries who would have preferred to forget a past “marked with the stamp of shame and dishonour”<sup>13</sup> or, in any case, to keep their memories of true facts.

The fact that the very existence of the TCR needs justification and the sometimes bewildering reactions that its Final Report has generated, indicates that the country is at a crossroads. Maybe it cannot be otherwise, because the way in which we interpret our history has always been a matter of dispute. “It is impossible to find a single memory, vision and interpretation of the past, shared by an entire society”, says Elizabeth Jelin<sup>14</sup>. That is not only subjected to different experiences of the past, but to the consequences in the present: memory occupies a central place in the construction of the identity of a society,

13- Words by the president of TCR: Dr. Salomón Lerner, during Final Report presentation speech. Commission of Truth and Reconciliation, Final Report, Lima: CVR, 2003.

14- Elizabeth Jelin, “Memorias y luchas políticas”, in Carlos Iván Degregori (ed.), *Jamás tan cerca arremetió lo lejos. Memoria y violencia política en el Perú*. Lima: IEP, 2003, p. 30.

because it is an expression of the sense we give to the past and so to the values that should guide institutions in our society. Construction of memory is, then, a highly political issue.

This is perhaps the point where we have least progressed as regards TR recommendations. Even if we consent to the fact that the construction of collective memory is a long process, a realistic look at the political climate of Peru today is not much reason to be optimistic. Here is the importance of initiatives such as Colectivo Impulsor, beyond the specific goals: keeping the issue in the public discussion, avoiding oblivion. It is a tremendous challenge, especially in such a difficult environment. In the words of a local journalist: the Colectivo Impulsor is “the drop on the stone”. But, there they are. •

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