



INDIGENOUS TERRITORIAL AUTONOMY AND SELF-GOVERNMENT IN THE DIVERSE AMERICAS

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Indigenous Self-government Landscapes in Michoacán: Activism, Experiences, Paradoxes and Challenges

Orlando Aragón Andrade

Introduction

There was a time when speaking of Indigenous autonomy in Mexico was reduced to Zapatista experiences in Chiapas. For better or worse, the Zapatista Army of National Liberation provided the concept of Indigenous autonomy with substance and a particular practice: rejection of the Mexican State and its institutions. However, this common sense does not apply to the wide range of autonomous practices and experiences built by Indigenous peoples and communities based in the Mexican State throughout history and into the present (Burguete, 1999; López, 2019).

Now more than ever, the concept of autonomy, according to Araceli Burguete's (2018a) caveat, contains several meanings. These caveats are key for this chapter, as I focus on experiences that must be framed within a concept that has even more constraints than Indigenous autonomy, which is that of Indigenous self-government. While these two concepts are used interchangeably, there is one distinction, accepted both by anthropology and the law, which I am recovering.

Based on this, Indigenous autonomy refers to communities' control and practices within a variety of areas of life such as social, cultural, religious, economic and political. On the other hand, Indigenous self-government implies only the political and legal dimensions in terms of the functions of government (Sánchez, 2010; Figueroa & Ariza, 2015; TEPJF, 2014).

This first delimitation is insufficient on its own. It is important to also address the myriad of expressions of Indigenous self-government. For this, I draw upon Burguete's recent approach (2018b) to address this. From this perspective, Indigenous government can be understood as a set of institutions and authorities that have been "negotiated", appropriated or inhabited by Indigenous peoples, throughout their relationship with the colonial State, but also with the independent State and its subsequent avatars. In this way, the concept of Indigenous government is simultaneously historic and contemporary.

It is important to start from this idea of Indigenous government as it allows us to see its dynamism and flexibility. However, it is also necessary to dissect the concept in order to make qualitative distinctions between the many forms of Indigenous government that are currently in existence. This way, the breaking points that have defined Indigenous "negotiations" and appropriations at different moments in time, become fundamental to understanding context, singularities, nuances and new meanings of the different forms of Indigenous government.

Under this order of ideas, a key point in understanding the current struggles of Indigenous communities in Michoacán is that which came about through the multicultural project that was carried out in Mexico, mainly at the end of the 1990's and the start of the 21st century. I am not interested in characterizing the policies of recognition based on multiculturalism, as these have already been broadly studied (Hernández, 2004; Hale, 2004; Díaz Polanco, 2006). It should be noted that, despite disappointing results, multiculturalism was able to change State rhetoric of denying Indigenous peoples and communities in Mexico and reconstituted the playing field between communities and the Mexican State through the appearance of new narratives, new sectors, actors and instruments of struggle. It is within this breaking point when Indigenous peoples' human rights were acknowledged by the State, at least in a rhetorical manner.

For example, in Michoacán, multicultural policies led to institutions and bureaucracy such as community courts, bilingual public prosecutors, the

now-defunct Ministry of Indigenous Peoples, the Intercultural Indigenous University of Michoacán, among others. All of these had brief periods of upsurge before eventually declining and with some becoming defunct.

It is within the context of the end of the multicultural stage and the emergence of a new post-multicultural turning point, where the framework for this particular study into Indigenous self-government processes exists. Considering the previous points, I find it useful to classify three different expressions of Indigenous self-government for our analytical purposes: pre-multicultural, multicultural and post-multicultural. As any classification is a simplification of a more complex reality, it should be noted that these three expressions do not imply their passing. Within Michoacán, a region within the state, or even within an Indigenous community, we can find all three of these expressions coexisting together, and on several occasions in conflict with one another. However, I find this analytical proposal helpful when presenting the singularities, innovations and potential (within their context and conditions that have yet to be studied) of Purépecha community processes of self-government which have been growing in Michoacán and, to this day, have influenced the current activism of other communities from different provinces in Mexico such as Guerrero, Chiapas, Jalisco, Puebla, Mexico City and Oaxaca.¹

The ensuing data and conclusions are committed to the militant insertion I built with the majority of activist processes I have studied (Aragón, 2019). Much of the content included here comes from my critical collaboration as an attorney and anthropologist² with the Emancipation Collective, which has closely followed the fight for self-government in Purépecha communities since 2011.

I am proposing a particular itinerary for the development of my arguments. In the first two sections I will focus on the study of the previously mentioned post-multicultural context. I will specifically study the social and political conditions in which these new processes of Indigenous self-government emerged in Michoacán. I will then analyze the legal context which made it possible for the acknowledgement of the right to Indigenous self-government. Thirdly, I will study both scales of Indigenous self-government which have resulted from the Purépecha experience, particularly in the different communities that have attained the acknowledgement of this right and have practiced it for several years. Lastly, I will focus on the limitations and

challenges faced by the Purépecha community processes after nine years of Indigenous self-government.

Post-multicultural Conditions within the Sociopolitical Sphere in the Fight for Indigenous Self-government in Michoacán: Between the Old and the Mexican State

The political and social conditions of the post-multicultural stage in which these experiences of Indigenous self-government arose are due to a combination of both relatively new issues as well as older ones.

Purépecha “Aprils” against Insecurity and the Credibility Crisis of Government and Electoral Institutions

The most defining events that marked the end of the first decade of the 21st century and the start of the second decade in Mexico were, on the one hand, the unprecedented increase in violence and insecurity (Turati, 2011; Olmos, 2015), and on the other, the profound crisis of legitimacy of electoral institutions only a few years after the hegemonic party’s defeat in the presidential election and the beginning of the stage known as partisan alternation. In 2007, in the midst of a deep questioning of the close results of the presidential election, the government of Felipe Calderón took a dramatic turn in the strategy against organized crime. From that moment on, the country’s militarization increased on the basis of defeating drug trafficking and other criminal groups. This, which began with *Operación Conjunta Michoacán* (Joint Operation Michoacán), resulted in an exponential increase in violence in practically every region of the country.

Organized crime had increased its power considerably, compared to previous decades, in most of the territory. Illicit activities such as kidnapping, extortion, homicide, human trafficking, among others, were added to the ones that had been carried out for several years, such as the trafficking of drugs and arms. However, the most significant change was the incursion of raw materials, mainly mineral and forest products into the fray. Organized crime became a central actor in the wave of dispossessions related to neo-extractivist activities that was experienced by several Mexican communities, both Indigenous and *mestizo*.

However, in order to understand the change in organized crime activities we need to mention the collusion with State authorities of different levels who facilitated and benefited from the profits (Gledhill, 2017; Maldonado, 2018). Two distinctive examples which highlight this collusion were the arrests of several Michoacán mayors in 2009 due to alleged ties to organized crime (Ferreyra, 2015), as well as the arrests of the state's former secretary of government, the son of Michoacán's former governor-elect, and the consequent resignation of the former governor-elect due to these scandals.

The arrest of State officials, whether because of collusion or incompetence, contributed to the discrediting of electoral institutions and political parties, as well as local and national governments. For many Mexicans, this came with the realization that they would need to face crime on their own. Adding to the discrediting of electoral institutions following the disputed results of the 2006 presidential election, the governments of the country's three main political parties further reduced their already low credibility in the eyes of the public when their performance on organized crime amounted to the same. Within this context is where the struggles of the communities of Cherán and Arantepacua begin. While these events took place during the month of April in different years, they have both found their path towards Indigenous self-government.

Purépecha communities are the main ethnic group in Michoacán. As shown on the following map, they are traditionally located in four regions: Meseta Purépecha, Ciénega Zacapu, Cañada de los Once Pueblos, and Cuenca del Lago de Patzcuaro (West, 2013). Both Cherán and Arantepacua are located in Purépecha Meseta (the plateau) region.

In the case of Cherán, factors related to insecurity and electoral institution's lack of credibility took the shape of the looting of forests by organized crime; increases in violence and insecurity; criminal co-optation of municipal authorities; and the political crisis regarding the legitimacy of the last mayoral election. All of these led to the beginning of the movement for "peace, justice, and reconstruction of the region."

On 15 April 2011, the Cherán community began an organizing process, initially defensive in nature, against organized crime and the abandonment by municipal, state and federal governments, which at that moment were occupied by the country's three main parties. Cherán reactivated and adapted several community practices to respond to the emergency and enacted a new political pact based on two key principles of self-government in Michoacán:

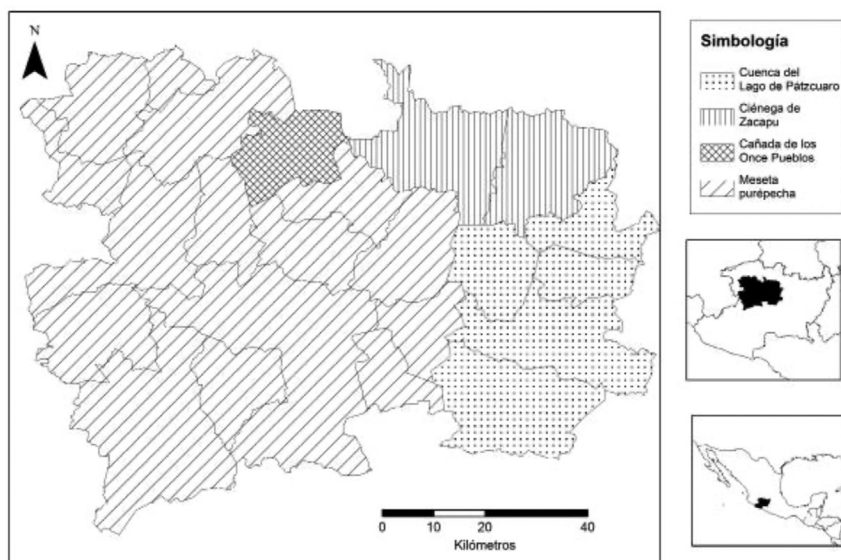


Figure 20.1. Michoacán's four Purépecha regions. **Source:** Elaborated by the author.

community organizing instead of political parties; communal security instead of the police.

This pact should not be understood as any other agreement, but as a community-level constitution. In a previous paper, I have argued about the importance of decolonizing the modern and Eurocentric idea of a constitution, in order to understand the judicial-political logic that communities have put forth in these processes (Aragón, 2019). Although community constitutions, in political pacts such as these, do not have the same level of formality, nor do they have a written version of their articles, they carry out many of the functions of constitutions for national and multinational States (Aragón, 2019). However, the broadening of the term cannot lead us to consider that any political pact of a people, community, collective, etc., can be considered a constitution. As explained, it requires the existence of at least two fundamental elements: recovery, adaptation or invention of institutions which bring about this pact, or the rehabilitation of its own political and judicial proceedings which allow for its defence (Aragón, 2019).

This is evident in the case of Cherán. From April 2011 until 5 February 2012, when the new *Usos y Costumbres* (customary law) system of municipal government was officially installed, the Cherán Purépecha community rejected the instituted municipal government and opposed it by instating an Indigenous popular government based on the traditional division of the community in the four *barrios* (neighborhoods). Several commissions were formed in order to meet the needs of the community. Among the 16 commissions that were formed, aside from a general one, were Honor and Justice, Education, Forests, Press and Propaganda, Food, etc. The logic that led to the forming of these commissions was that their integration depended on the assemblies of each of the four *barrios* of Cherán. Because of this, the commissions equally represented these four groups. The members who formed these commissions did these tasks in an honorary fashion (unpaid community service).

Aside from the development of this neo-institutionality based on the reconfiguration of traditional forms, the new Cherán community pact established the general assembly as the main space for decisión-making, and as such, as a mechanism to defend, modify or suppress the political pact that had risen from the movement.

Almost five years after the uprising in Cherán, on 5 April 2017, the community of Arantepacua (belonging to Nahuatzen municipality) endured a police incursion. The development led to the murder of four community members, as well as several arrests, at the hands of police forces, and a social trauma that has yet to be overcome. This situation led the Arantepacua community to create through their general assembly a new political pact based on: demanding justice for the murdered members; expelling political parties that were only taking advantage and polarizing the community; not allowing State security forces entry into the community; and seeking judicial recognition of Indigenous self-government that would allow the community to govern itself through its own *Usos y Costumbres*, as well as independence from the municipal government.

In parallel to this legal route, a process of institutional redesign began in the community. After a period of submission to the Nahuatzen municipal government, the general assembly reaffirmed itself as the main authority and chose to reject the municipality's *jefes de tenencia* (auxiliary government authority) while also forming a new authority body of representation, called the Indigenous Communal Council of Arantepacua. Its members were elected for

a two-year period during the general assembly led by both men and women. This new council integrated one single authority for farming leaders (representatives of communal land) and civil leaders who grew in numbers due to the different functions they needed to cover following their recognition of their right to Indigenous self-government.

While this new context has been key, there are other, older political processes that have intersected with these conditions and have contributed to the emergence of the Purépecha community's challenges.

Political Exclusion of Indigenous Communities within the Mexican State Apparatus and Avatars of Challenges in the Fight for Indigenous Self-government at the Sub-municipal Level

Since the time of New Spain's colonial rule, Indigenous communities have struggled to maintain their own separate political status through the so-called Republic of Indians. With the birth of the Mexican State in the 19th century, these communities continued their fight, this time seeking a place at the municipal head of government. In fact, the historiography of Indigenous peoples during the 19th century documented how certain Indigenous communities in Michoacán, through the provisions of the Cádiz Constitution, were able to briefly acquire the status of municipal governments (Cortés, 2012).

Despite these efforts, the majority of communities were subjected and integrated, both at an administrative and political level, to municipalities controlled by a population that was mostly made up of *mestizos* or *mestizo* communities, as was the case of Nahuatzen and Charapan (West, 2013). Within this general rule, Cherán is a notable exception for the case of the Purépecha communities. This is one of the few Indigenous communities in Michoacán that were able to conquer the local head of government's political status.

In this way, municipal government in Michoacán was integrated according to organic municipal laws, within a political hierarchy made up by a capital population that was denominated as the head of municipal government, by subordinated populations that were mostly smaller than the head (which were referred to as auxiliary authorities) and by populations even smaller than the head and auxiliary authorities (known as peace entrusts)

The representative authorities of these last two jurisdictions of municipal government suggested the same logic for political subordination. In this way, their judicial nature was limited to being an auxiliary authority for the mayor, as shown on Figure 20.2.

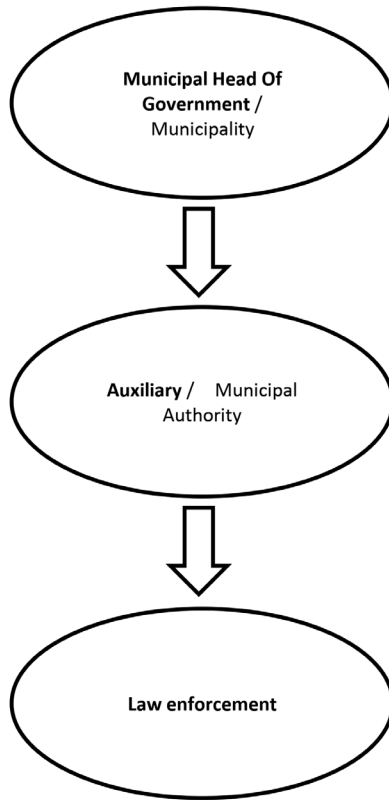


Figure 20.2. Political structure of municipal government in Michoacán. **Source:** Elaborated by the author.

This legal order does not prevent both of these authorities from having a more complex relationship in practice; at times in open resistance, at times disputing electoral differences, and at times in total subordination (Castilleja, 2003; Dietz, 1999; Aragón, 2020). For this reason, the establishment of a State regulation did not imply that communities’ autonomous aspirations would be cast aside during the 20th century. In fact, there are several episodes where communities switched municipalities due to conflicts with heads of government. Some examples that highlight these issues are those of Cherán Atzicurín and Santa Cruz Tanaco.

At the end of the 20th century and the beginning of the 21st, some Indigenous organizations of Michoacán requested a process of re-municipalization so that Indigenous communities would be able to acquire autonomy within the context of the municipality (Ventura, 2010). This request was due to political and economic strengthening that municipal governments in Mexico gained during the 1980's (Ziccardi & Assad, 1988).

Within this new wave of activism, some communities, under the framework of auxiliary authority, mobilized and were able to acquire better living conditions by marginalizing the municipal government. For example, following a complex electoral process in the municipality of Paracho in 2004, the Nurio and Quinceo communities were able to require that the municipal government hand over the public budget allocated to them through a political agreement that allowed the communities to exercise control directly (Ventura, 2010). To this day, the Nurio case continues to be a reference point of community organizing for other Indigenous communities in Michoacán.

However, not all Indigenous communities were able to acquire the same conditions that led to that moment between Nurio and Paracho, which is why a long period passed before another community was able to reach a political victory of this magnitude against their municipal government. This situation led other communities with similar claims to diversify their strategies to organize and incorporate other tools, such as the counter-hegemonic use of State law, as was the case of Cherán in 2011 (Aragón, 2019).

As advised, the conditions presented in this work, both long-term and short-term, are not exclusive, as these interconnect with one another. However, this classification is useful as in some cases, one particular process might have had a greater or smaller impact in the underlying circumstances that resulted in mobilization towards Indigenous self-government. The case of the Purépecha community of Pichátaro represents the best example of the combination of long-lasting tensions and issues with the municipal government of Tingambato and new challenges, such as forest looting and the community's increase in insecurity.

The main reasons that resulted in the discontent of the Pichátaro community were the extremely poor public services provided by the municipal government, mayoral corruption in terms of the construction of infrastructure, but mostly the controversial uneven allocation of the budget. Even before obtaining judicial recognition for Indigenous self-government, the municipal government allocated between 5 and 6% of the total budget

to the community, despite Pichátaro representing 36% of the municipality's entire population. The amount of political exclusion carried out by the municipal government had been such that no mayor since 1877, the year when the municipality of Tingambato was created, had been from Pichátaro, despite the population at the seat of the municipal government having practically the same population percentage, 39%, of the municipality's inhabitants.

This discontent towards the municipal government was accompanied by the same conclusion reached by Cherán, that political parties were the key element for the system to continue to marginalize the community. In the case of Pichátaro, the broad discontent on behalf of the community was focused on the ways in which local party leaders would reach agreements and deals with Tingambato elites for their own benefit rather than the community's.

The previous community diagnostic reached by the seven *barrios* that make up Pichátaro and its traditional authorities (auxiliary authority, communal lands representative and *barrio* heads) also resulted in a new political pact for the community, ratified by the general assembly agreement in 2015, which banned the installation of electoral polling booths in the community on election day, as well as disregard for political parties and their leaders, the resuming of community organizing, as well as requesting the municipal government to grant the community with direct administration and execution of the allocated amount of public budget.

Around the same time that this took place in Pichátaro, the Purépecha community of San Felipe de los Herreros also began a mobilization in regard to the public budget of the municipality of Charapan. In this case, the defining moment came as a result of the corruption of the mayor at the time in terms of the execution of public works in the community. As was the case in Cherán and Pichátaro, community action began with the banning of political parties within the community, as well as prohibiting of electoral polling booths to be installed during the elections of 2015. At the same time, the general assembly decided to strengthen community organizing, along with fighting for the budget and forming the Communal Council as the new community authority, that would work to reach the goal set forth against the municipal government.

While the previously set conditions help us understand the surge in community organizing, they do not show the judicial elements which allowed for the recognition and consequent exercise in the right of self-government. Because of this, I believe it is important to focus on the sociojudicial

conditions that made it possible for these actions to result in new forms of Indigenous self-government.

Legal Schizophrenia and Transformative Community Constitutionalism: Post-multicultural Sociojudicial Conditions in the Fight for Self-government in Michoacán

I have stated in other works that several transformations in the field of State law came together during this second decade to boost the fight for Indigenous rights to judicial lands (Aragón, 2019), thus breaking the inertia of multicultural policies in the production of reforms and new laws. These transformations were a by-product of a series of legal and political changes separate from the sphere of policies of multicultural recognition that the Mexican State and law has endured in the last few decades. Said changes have resulted in an increase in chances for Indigenous communities to reclaim their rights in court, with relative effectiveness or at least with a greater chance at success compared to other periods. Yet, this new area of opportunity has an ambiguous tendency, as it has not come about through the systematic and coherent transformation of Mexican State law, but through heterogenization, fragmentation and consequent increase in its uncertainty.

This is why I have stated that Mexican State law is currently undergoing a schizophrenic period (Aragón, 2019). Said legal schizophrenia is manifested in the ever more frequent and intense superimposition of different judicial regulations and interpretation criteria regarding a particular legal situation as a consequence of the impact of neoliberal globalization of the rule of law and the ever-increasing diversification of regulatory sources that come about. In this way, we see several legal dispositions from different times and political projects co-existing within particular fields of State law, or in the case of courts, the continuation of interpretation criteria openly differentiated within the same court. Of course, this schizophrenia is not arbitrary in character, but responds or is conditioned by an inertia of power that occasionally opens the door for its questioning, that generally tends to favor the status quo.

An example of this legal schizophrenia can be found in different State regulations that apply to Indigenous territories. Aside from the Agrarian Law, we have several new neoliberal legislations regarding the energy sector, human rights of Indigenous peoples in regard to land and the right to free,

prior and informed consent; this can also be found in some cases of civil law. Each of these regulations responds to a different political project and are from incredibly dissimilar moments in history.

Another element that contributed to the emergence of the State's legal schizophrenia was the change in the balance of power of the branches of the Mexican government over the last three decades. After a very long period of hegemony of the executive branch over the legislative and judicial, the last decade of the previous century saw its progressive weakening amid the increasing advancement of opposition parties. Where the executive branch was once the referee in terms of political conflicts, institutional reforms led by the judicial branch were set in place. This development, which the sociojudicial literature has denominated as the judicialization of politics (Sieder et al., 2011), positioned Mexico's Supreme Court of Justice (SCJN) and the judicial branch's Electoral Tribunal (TEPJF) as the new official referees for disputes between the State's political branches (Ríos, 2007).

Despite the importance of this development for the governmental branches, the greatest change for courts to become spaces for disputes, which provided more opportunities for the fight of Indigenous struggles in Mexico, was the human rights reform of 2011 in terms of the first article of the Federal Constitution. This reform implied the direct application of international treaties related to human rights within the Mexican government's jurisdiction.

In the case of the rights of Mexico's Indigenous peoples and communities, this reform led to the end of the refusal of Mexican courts to apply ILO Convention 169 on Indigenous and Tribal Peoples over and above internal legislation; as well the other statutes of international human rights law that favored this sector. This change made a qualitative difference, as international regulations regarding the rights of Indigenous peoples supposes a much broader and favorable framework than what is established in domestic law.

However, this new legal scenario does not transform anything on its own. Communities needed to activate these spaces in order to protect their community constitutions from the harassment of the State and organized crime. For this reason, Indigenous communities pushed for judicial processes which allowed for the recognition of their right to self-government and to pierce the State apparatus. This political force which surges from the bottom up, from Purépecha communities and not from the courts or external actors, is what I have termed transformative community constitutionalism (Aragón, 2019).

The community and legal processes of Cherán and Pichátaro illustrate this dynamic. While the Cherán community's struggle began as a reaction to the danger that came with the return of organized crime, and to bring a stop to the destruction of the forest, the path to its mobilization was altered by the beginning of the electoral process to renew the Michoacán state and municipal governments.

This coincidence brought with it pressure from local and regional leaders of political parties for community organizing to allow electoral campaigns to take place. Faced with this situation, members of Cherán community began to look for alternatives to avoid this from happening and to maintain one of the pillars of the political pact made in April 2011 (no more political parties). Aside from resisting the pressures placed on community organizing, it was decided that a document would be presented before Michoacán's Electoral Institute (IEM) to request that the election of their municipal authority take place within the framework which Oaxaca state recognized as an election by *usos y costumbres* or customary law (Anaya, 2006).

At the time, Michoacán was one of the states with the worst judicial framework in terms of the rights of Indigenous peoples and communities, and said procedure was not included in the local constitution or in Michoacán electoral code. This made it easy for the IEM to state that it had no power to grant a favorable response to the request.

In order to protect its political pact, Cherán decided to include an external element, the counter-hegemonic use of State law. This was how a trial for the protection of political electoral citizen rights was brought to the TEPJF (Electoral Tribunal) as a means to counteract the IEM's ruling.

The legal argument on which the case was based was the use of the reform of Constitutional Article 1 to request the direct application of international treaties regarding human rights of Indigenous peoples; as well as Constitutional Article 2. Unlike the IEM request, in this case the community not only requested for the organization of an election adhering to *usos y costumbres*, but also the recognition of a municipal government that was not set up under the concept of a municipality, but under a communal government. These last two proposals are the reason behind the TEPJF finally ruling in favor of recognition in a historical judicial ruling on 2 November 2011.

Under the same argument of the counter-hegemonic use of State law, Pichátaro community put forth a new case to the TEPJF to protect its own

community's constitution, given the danger that political party leaders colluding with the municipal government would attempt to step over it.

Once the decision was made, a legal argument was worked out that would allow the community to present a matter that was apparently about finances (related to the budget), and therefore become related to administrative law, a political-electoral jurisdiction. For the first time, the political rights of Indigenous communities were brought before the TEPJF, beyond the right to choose an authority or government system; beyond even the request for communities to participate in a State decision that could affect them through a consultation process. The proposal included in the case document focused on bringing about a broad interpretation of Indigenous communities' right to self-determination and autonomy, in terms of intrinsic political rights, by demonstrating its multiple and independent dimensions while claiming that all of these were susceptible to being processed in the political electoral jurisdiction.

The central argument focused on how political rights relating to Indigenous self-determination and autonomy included other dimensions such as the right to independent development and effective participation in the State's political sphere. Based on this, the TEPJF would need to create a systematic and comprehensive interpretation of ILO Convention 169, the United Nations Declaration on the Rights of Indigenous Peoples, and Article 2 of the Mexican Constitution with what is established by Article 115. (While the latter, which regulates Mexican municipal governments, does not include the possibility of a municipality transferring public budget to an Indigenous community for its direct management and execution, it does not explicitly prohibit it either.)

After a year of litigation, on 16 May 2016 the TEPJF ruled in favor of the Pichátaro community. However, the execution of the decision was protracted until the end of November of that year due to the mayor's reticence to carry it out.

The Two Levels of Indigenous Self-government in Michoacán

Transformative community constitutionalism for Purépecha communities resulted in two levels of Indigenous self-government: municipal and sub-municipal. Both dispute the political-administrative logic of the Mexican State's

municipal government structure. Both focus on logic, institutions and mechanisms intended for different kinds of political participation. However, each level also has its particular characteristics and challenges. We will start with the municipal level.

Cherán K'eri: Self-government at the Municipal Level

The new municipal government of Cherán, elected by the community's four *barrio* assemblies, was installed on 5 February 2012, with its representative authority being the Head Council of Communal Government (CMGC). This new structure for municipal government was based on commission-based community organizing which prevailed through most of 2011. The municipal government was no longer the main authority for the municipality or the community, but instead a general assembly, first represented by the CMGC (composed of 12 community members, three from each of Cherán's barrios).

The CMGC was joined by six operational councils which were put in place to assist carrying out government functions in the municipality. Among the different councils which were part of this first administration were: Communal Lands; Local Administration; Civil Affairs; Honor and Justice; Social and Economic Programs; and the *Barrio* Coordination Council. The Youth Council and the Women's Council were added during the second administration, all of which make up Cherán's community government structure to date. The integrations of these operational councils are made through *barrio* assembly elections and they have a membership integration system similar to the CMGC.

With this new integration, Cherán has exerted functions which the Federal Constitution grants municipal governments. Functions such as security correspond to the Council of Honor and Justice in coordination with the Community Watch group. Public works and infrastructure are overseen by the Local Administration Council in coordination with CMGC. But perhaps the most important part is the link between all of these councils with *barrio* assemblies and the general assembly. Each week, the *Barrio* Coordination Council calls for an assembly to report on the communal government's development and to consult with the assembly on community matters, such as how and for what purposes should the municipality's allocated budget be used. The CMGC's members must be present at said assemblies in order to report back to the state government.

It can be said that Cherán's experience is different from other fights for autonomy in Mexico in the sense that it disputes the State from its base: the municipal government. Unlike Zapatista examples which build their own institutions in parallel with those of the Mexican State's, Cherán does this through the adaptation and colonization of the municipal government, as well as political participation, even through State law. Unlike municipalities in Oaxaca that elect their authorities through *usos y costumbres*, Cherán goes beyond the procedure which implies an electoral system and questions the colonial monopoly that existed in Mexico until then (where the municipal government was the only recognized option) through the use of the State's law.

Pichátaro, San Felipe de los Herreros, and Arantepacua: The Emergence of the Fourth Level of Government

As previously stated, over the last several years, the Nurio community has developed a form of Indigenous self-government for Purépecha communities. Despite its political brilliance, this form has more limited implications for the State and its law. While some government functions are exerted with a budget which is directly allocated for the municipal government of Paracho, this does not generate any major legal or political consequences that would lead to transformations of municipal government and the State, as it remains judicially contained as an internal measure of the local government.

The cases of Tanaco, Comachuen and Pomacuarian communities also fit into this category of internal political agreements. While these three cases have very different actors and experiences, they mostly share the same legal implications. The main one being that they remain within the legal framework and State-building which has historically excluded them, and they are contained within internal political affairs of their municipal governments. It should also be noted that, while these cases claim to have agreements with their municipal governments, many of these do not exist physically. This is why their temporary and material reach is entirely discretionary. Also, as with any agreement, it is based on the will of both parties involved, which implies that it can be ended with no legal consequence once one of the parties is no longer interested in keeping it. This is what happened years ago in Quinceo.

The cases of the communities of Pichátaro, San Felipe de los Herreros and Arantepacua exist in a different category. These cases came about after a series of judicial recognitions that go beyond the will of mayors and political

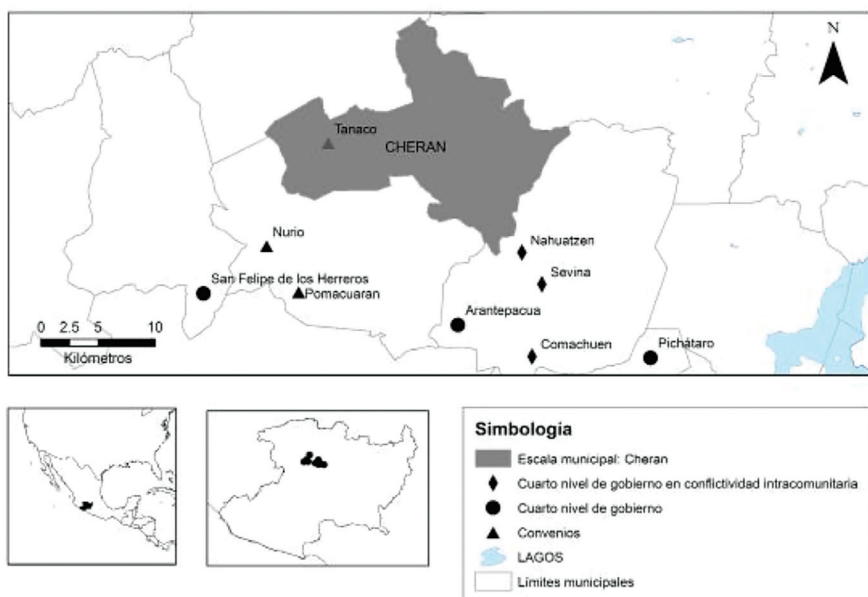


Figure 20.3. Indigenous self-government processes in Michoacán. **Source:** Elaborated by the author.

agreements with municipal governments. In fact, they are a product of the unlikelihood of reaching these agreements. The legal and political implications of judicial recognition that these cases are based on surpass the municipal government's internal political sphere and connect them to various government levels and State agencies. Practically the same ones which correspond to a municipal government.

Because of this, it is important to make a qualitative distinction between this last set of cases and the first set that was mentioned in this section, as it appears that what the TEPJF and Michoacán State Electoral Court (TEEM) created through the corresponding judicial resolutions was a new level of government within the Mexican State, which existed on a community or sub-municipal level: a fourth level of government.

Pichátaro was the first community to achieve judicial recognition. Just like the case in Cherán, it carried out a series of institutional transformations in order to exert self-government. In May 2016, a few days before the TEPJF ruled on the matter, the community decided, through a vote in the

general assembly, to eliminate the post of auxiliary authority and to name the authority figure that would be charged with completing the process and eventually administrate the budget. This intended to eliminate any kind of dependence with Tingambato's municipal government, while creating an institution in agreement with the new political pact, and the eventual recognition of Indigenous self-government. This was how each of the assemblies of the seven *barrios* which make up the Pichátaro community elected the members of what has since been known as the Communal Council (*Chatarhu Anapu*). Each of the members of the Communal Council was elected for a two-year term, though they could be removed from their post whenever the *barrio* assembly chooses to do so.

The creation of the Communal Council supposed a reengineering of community authorities and an important change in its Indigenous government. From then on, the general assembly became the main authority in the community. Three authorities were placed under it: Representation of Communal Lands, *Barrio* Leaders and the Communal Council. The last one is organized through seven different departments which are managed by each of its members: finance, public works, security, maintenance and services, education and culture, health and sports and environment.

After the ruling in November 2017, the Communal Council began to manage and exert 36% of the total budget which the municipal government of Tingambato previously received. Despite several legal and administrative conditions for government practices and the execution of economic resources, the Communal Council has made an effort to carry this out in a community-based manner. This is done through working closely with *barrio* leaders and each of the assemblies to determine how the resource will be used.

A few weeks after Pichátaro's victory, the community of San Felipe de los Herreros began its judicial process to gain this same recognition. Unlike Pichátaro, San Felipe's case was processed through the TEEM and resolved in under three months. Shortly after, under the violent events that were previously mentioned, the community of Arantepacua did the same, and, in a timeframe similar to that of San Felipe, also received the same recognition.

Although San Felipe and Arantepacua were also granted the same judicial conditions as Pichátaro, both of these cases had significant differences in terms of self-government and the corresponding adaptation for Indigenous government. An example of this, which was a result of the process for self-government, was that two new authority figures were created in San Felipe which

were added to the traditional ones. The Head Council and the Administrative Council would now join the auxiliary authorities and the Representation of Communal Lands.

The community did not discard the auxiliary authority post, mostly because the municipal government did not wield any power over it. Also, it was deemed important for the post to continue in order to carry out functions related to both government and religion, as it had done previously.

In the case of San Felipe, the Administrative Council (which was constituted by some members of the Head Council which had been previously elected by the community's four *barrios*) was placed in charge of the budget. Aside from participating in the fight for Indigenous self-government, the Head Council continued to carry out these tasks after the goal was reached. Since then, it carries out the roles of comptroller, consulting body and *barrio* coordinator in relation to the Administrative Council's functions. The members of the Head Council have two sessions a week and carry out these tasks in an honorary fashion (unpaid community service), unlike members of the Administrative Council.

Members of the Administrative Council have departmental assignments to carry out government functions. In this case, one of the members functions as president, another as treasurer, another is tasked with public works, another with justice and security, another with education and sports, another with environment, and finally another is tasked with duties related to the System for Integral Family Development (DIF). The Administrative Council of San Felipe also employs a couple of dozen community workers in order to be able to carry out these tasks.

In the case of Arantepacua, an Indigenous Communal Council was also formed. However, in this case, the post of auxiliary authority was eliminated, and all authorities were integrated into one. The Representation of Communal Lands was merged into the Indigenous Communal Council. In broad terms, the functioning of Arantepacua's new and single authority follows a logic similar to that of the other two communities. That is, each of the Council's members heads a particular department such as communal lands, social programs, public works, DIF, treasury, justice and security, among others. During the second administration, through an agreement within the general assembly, a Commission of Honor and Justice was created to supervise the work of the Communal Council, with functions resembling that of a local comptroller's and formed by community members who carried out these

tasks in an honorary fashion (unpaid community service). Something that should be mentioned, which exists across all cases of Indigenous self-government in Purépecha communities, whether at a municipal or sub-municipal level, is that those who are part of the relevant authorities tasked with managing the budget have very low salaries. To be tasked with this responsibility is not seen as a career choice but as a service to the community.

Something else that is worth highlighting is that, in these cases and that of Cherán, political participation of women has seen an increase. Several of these communities had not elected women to authority positions prior to these legal processes being carried out. After the self-government processes, both due to equality laws as well as internal pressure, women have been gaining traction in the public sphere. However, this does not prevent some communities and administrations from having more or less representation.

Another relevant matter is that communities that exert self-government in both levels have developed their own mechanisms for transparency and auditing that are independent from external entities, whether through the appearance of Council members at *barrio* assemblies, through the review made by an authority tasked with comptroller responsibilities or through periodical reports presented at the assemblies. In the case of the Councils, these mechanisms tend to be more demanding and effective for the correct management of the allocated resources than those that they are expected to send to the State's Superior Audit Office in the same way as any other municipal government.

All these cases have both similarities and distinctions. One that is worth mentioning in the case of Arantepacua is the way in which security and justice tasks are carried out compared to Pichátaro and San Felipe. Unlike the last two, where cooperation between state police and community police is possible and usual, security and justice in Arantepacua is an exclusively communal matter. The *Kuaris* or *Kurichas* (communal authorities) carry out all of the town's security services as well as those relating to justice, while state police are banned from entering due to the events of 5 April 2016.

Since acquiring legal recognition, the Communal Councils of Pichátaro, San Felipe de los Herreros and Arantepacua have had the same legal standing as a municipal government, though on a sub-municipal level. They have similar rights and obligations following the transference of municipal government functions to the community. They now share obligations which range from being subject to auditing from the Superior Auditing Office of the State

of Michoacán, to being considered as responsible authorities for trials. They are also imbued with attributions from defining and managing their allocated budget, to the legal personality to litigate. These are the reasons behind the statement regarding the emergence of a fourth level of government.³

While all three communities have already carried out changes within the members of the Communal Councils (two in the case of Pichátaro, while San Felipe de los Herreros and Arantepacua have had one each) through a peaceful and orderly process, their management has not been devoid of crises. However, these do not compare to the most recent proceedings related to the judicial recognition of the communities of Nahuatzen, Sevina and Comachuen where community polarization and violence has been a constant in the short time that they have been in place.

Final words: The Challenges of Indigenous Self-government in Michoacán

Although several cases of Indigenous self-government have taken place in Michoacán over the last nine years, it would be a mistake to think that these have been devoid of problems, particularly over the last two years. The challenges can be classified into two kinds. The first is of a more legal nature and demonstrates the reversal of the legal schizophrenia that made it possible for the granting of the right to Indigenous self-government, while also conditioning and limiting it. The second refers to some communities' inner conflicts which have been brought about due to the fight for self-government.

While judicial triumphs led by transformative community constitutionalism of Purépecha communities have allowed the succinct pathways for Indigenous self-government at a municipal level and fourth level of government, these have not been enough to force legislation to bring about legal coordination that would establish a new framework for Indigenous self-government (whether in its most basic version, as well as in municipal public administration law) so that different Councils can function within a legal regime that is adequate and in accordance with their reality. For example, reform is necessary in article 115 of the federal constitution, in the local constitution, in the municipal organic law of Michoacán, in the law of mechanisms for citizen participation of Michoacán, in the electoral code of Michoacán, in the law of superior audit and accountability of Michoacán, among many others.

On the other hand, and partly due to fear of political parties, Congress has opted to ignore these legal advancements, and not make changes to legislation as if these acknowledgments have not happened. Because of this, self-government processes in Michoacán have dealt with hostile legislation from a local public administration that is made for municipal governments, which creates a highly complex situation for communal operations.

However, communities have not remained idle toward this situation. Since 2017, Cherán, Pichátaro, San Felipe de los Herreros and Santa Fe de la Laguna communities have joined efforts and coordinated towards an eventual reform to the framework of local public administration at the municipal level. This Indigenous self-government alliance was formalized in 2019 by Pichátaro, San Felipe de los Herreros, Arantepacua and Santa Fe de la Laguna communities. From then on, joint actions have been carried out to seek the necessary reforms which to this day have not yet been created.

Another key challenge regarding self-government processes in Michoacán is related to internal divisions and conflicts within communities, which have emerged in certain communities in the region. As expected, the Cherán and Pichátaro cases did not just impact communities that had previously reached consensus regarding the demand for sovereignty and Indigenous self-government. These also had a ripple effect on a very diverse set of actors and power groups (such as local leaders of political parties, civil society organisations, etc.) who intended to seek self-government outside the framework of a community. This development has resulted in recent mobilizations being stalled and leading to internal conflicts within communities, where the previous framework of dependence on the municipal government remains in place, while the revindication of self-government is not entirely set in place.

This internal violence and conflict have also led to a new phenomenon, which had previously appeared in the Cherán, Pichátaro and Arantepacua cases but in a marginal aspect. I am referring to the judicialization of *usos y costumbres* and communities' internal political polarization, as in the case of the community of Sevina and Nahuatzen head authority, which have resulted in a never-ending series of trials.

A negative result of this situation in the case of Nahuatzen communities is that the concept of Indigenous self-government is increasingly perceived as problematic and violent. This is evident in the fact that state agencies that had paved the way for this new concept are now considering shutting down these proceedings. One of the clearest examples of this development is TEEM,

which declared in 2019, for the first time since 2017, that it was unable to rule on issues related to Indigenous self-government.

In this post-multicultural moment, Michoacán does not possess one particular landscape in terms of Indigenous self-government, but several. That is why the title of this work uses the plural, to highlight the diversity of expressions that co-exist within Purépecha communities. However, this apparently irreducible diversity is not what I intended to focus on in this contribution. My intent was to highlight what stands out from these landscapes, which I believe are cases built from grassroots efforts, from Purépecha communities which emerged during this post-multicultural period. While these communities are fighting against the State based on the oldest cases of Indigenous self-government, they are using new forms of community organizing, rhetoric, tools, expanding in other fields and consequently creating a potential for decolonization. One result that would need to come out of this is the recognition of a new legal precedent for municipalities and Indigenous communities in the states of Guerrero, Chiapas, Oaxaca, Mexico City, Morelos, Puebla and Jalisco to also reach recognition and the ability to exercise self-government over the past five years (despite the lack in Indigenous reforms or secondary laws regarding sovereignty and Indigenous self-government). Therefore, its limits and its scope are still in dispute.

NOTES

- 1 The legal precedent that was built by Purépecha communities in Michoacán in their fight for self-government has been resumed by municipalities and communities in these states. From a municipal front, we have the examples of Ayutla de los Libres in Guerrero, Oxchuc in Chiapas and Hueyapan in Morelos. In terms of sub-municipal examples, there is the case of the Wixárikas communities in San Sebastián and Tuxpan de Bolaños in the state of Jalisco; the Otomí community of San Pablito in Puebla, the neighborhoods and Indigenous communities of Xochimilco (now known as San Andrés Tototoltepec community) in Mexico City and the community of Dolores in Oaxaca.
- 2 The Emancipation Collective is a militant academic organization which has collaborated in a pro bono manner with Indigenous communities in Michoacán and Mexico in the fight for sovereign and self-government rights. We mostly include professors and researchers specializing in critical and interdisciplinary law studies from a wide range of public universities and research centers in Mexico. It is from within this space where I have worked with Purépecha communities such as Cherán, Pichátaro, San Felipe de los Herreros, Arantepacua, Santa Fe de la Laguna, Teremendo and La Cantera, who are currently practicing or fighting for their right of Indigenous self-government.

- 3 It should be worth mentioning that the concept of a fourth level of government has already been used, though in the sense and reference of different kinds of local governments compared to the ones that reached recognition in these proceedings where the right to Indigenous self-government was directly recognized. For example, Héctor Díaz Polanco (2003) referred to autonomous regions as a fourth level of government, while Raúl Olmedo (1999) speaks of a fourth level of government on the same sub-municipal level based on the case of a municipal government in the state of Tlaxcala during the 1980s.

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