







## Criminalization, threats and attacks against members of indigenous peoples movements

-  **Mareña Renovables/ Eólica del Sur**
-  Mexico
-  Wind
-  IDB / IDB Invest, EKF, BANOBRAS, NAFINSA

The Mareña Renovables project, which began in 2003 under Spanish company Preneal, was to be the biggest wind farm in Latin America, consisting of 132 turbines, in addition to substations, docking stations, and associated roads and transmission lines.<sup>1</sup> The turbines would be located on two narrow strips of land -- San Dionisio del Mar and Santa Maria del Mar -- in the Isthmus of Tehuantepec, Oaxaca, Mexico, home of the indigenous Ikojt and Binnizá people.

The area has long been marked with intense territorial, ethnic and political conflict, which has been exacerbated by expansive wind energy development in recent years.<sup>2</sup> Indigenous communities reported that as Preneal moved to acquire land, instead of undertaking a participatory process of free, prior and informed consultation as required under Mexican law, it withheld information and divided the communities, negotiating leases with individual land owners, without the requisite community approval required by law, or without full disclosure of the lease terms.<sup>3</sup>



Wind farms development has spiked across the region.

El Alebrije

In 2011, Mareña was acquired as a public private partnership by the Macquaire Mexican Infrastructure Fund (MMIF), Macquarie Asset Finance Limited and Coca-Cola bottler, Fomento Económico Mexicano (FEMSA) with funds from Mexico's National Infrastructure Fund (FONADIN), a trust of Mexico's National Bank of Public Works and Services (BANOBRAS). As the project advanced, communities struggled to gain access to information about the project and feared that it would damage the fragile local environment and disrupt the fishing economy.<sup>4</sup> Communities clamored for more accessible and affordable electricity, but the power generated from the wind turbines was destined for use by FEMSA and Heineken Mexico. While one community supported the project, seven others opposed it.<sup>5</sup> Under the umbrella of the Assembly of Indigenous Peoples of the Isthmus of Tehuantepec in Defense of Land and Territory (APIITDIT), the communities organized street protests and legal challenges.<sup>6</sup>

In April 2011, indigenous communities organized a protest outside the Federal Electricity Commission (CFE) in Juchitán opposing high electricity tariffs, the granting of licenses and construction of wind farms on indigenous lands, and the detention of an indigenous leader. Following the protest, at the CFE's request, the state launched a formal complaint and arrest warrant against Bettina Cruz, a leader with APIITDIT, for suspected "opposition to the execution of a public work" and "crimes against the national consumption and wealth." Police also charged her with wrongfully detaining CFE office personnel.<sup>7</sup> Bettina, however, was never at the protest.

In November, the Inter-American Development Bank (IDB) approved \$72 million in financing for Mareña.<sup>8</sup> IDB had flagged the project as "high risk," noting that the project could both be impacted by, as well as exacerbate, existing conflict.<sup>9</sup> The project's environmental and social management plan noted

San Dionisio del Mar marches against Mareña Renovables.



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risks associated with the use of private security forces to manage conflict or vandalism at the site. It suggested mitigating these risks through increased communications, monitoring, and staff capacity, and by having the borrower accede to good industry practices.<sup>10</sup> Project documents claimed that the consultation of indigenous peoples and land acquisition processes complied with Mexican laws and the Bank's principles, and that there was "no opposition to the project from indigenous peoples."<sup>11</sup> At the same time, documents noted that the consultations suffered from "a lack of a systematic process to register issues, concerns, and feedback of affected people".<sup>12</sup>

As community opposition to Mareña and other wind farms in the area grew and intertwined with political divisions, so, say residents and reporters, did the surveillance, repression, threats, beatings, detentions and criminalization.<sup>13</sup> Community members reported aggressions from supporters of the project, local authorities and party leaders, company employees, hitmen, police forces, investors, and representatives of the company union.<sup>14</sup>

In January 2012, the members of the community of San Dionisio learned that the Mayor had given unilateral authorization for the wind farm's construction.<sup>15</sup> They occupied the municipal palace, deposing the Mayor.<sup>16</sup> Reports that previous government officials accepted bribes from Mareña's proponents ignited tensions.<sup>17</sup>

In February 2012, Bettina was arrested while leaving a meeting with the CFE, based on the outstanding warrant.<sup>18</sup> She was released on bail but would not be acquitted for another two years. At the same time, Mareña Renovables received a new influx of funds as Mitsubishi and Dutch pension fund PGM joined

the project, with Danish Export Credit Agency (EKF) providing the credit guarantee.<sup>19</sup> In March and April, IDB made its first two disbursement to Mareña.<sup>20</sup>

On May 14, the Governor of Oaxaca reportedly threatened community leaders who had raised concerns with the project, saying, "blood could flow if you don't stop being so obstinate". According to community members, the governor suggested that community members could be assassinated, referencing killings of anti-mine activists in a nearby community.<sup>21</sup> On May 15, IDB made its third loan disbursement.<sup>22</sup>

In September, APIITDTT and other civil society groups petitioned for an injunction to stop the project. Shortly thereafter, Bettina and her husband reportedly received a series of death threats and had to flee from their home in Juchitán for nine months with their daughters.<sup>23</sup>

In October of that year, community representatives communicated their concerns to IDB.<sup>24</sup> The following month, the community of Álvaro Obregón found their fishing access blocked by the company. Clashes ensued between the community, the company and security forces.<sup>25</sup> The community set up roadblocks on their land to prevent the passage of workers and machinery, and several more communities and civil society groups joined in the struggle.<sup>26</sup>

In November 2012 community members delivered a document to IDB's Mexico City office, signed by 2000 community members, rejecting the project.<sup>27</sup> They reported that IDB representatives ignored their concerns and requests for information.<sup>28</sup>

On December 6th, a district court ordered the temporary suspension of the project.<sup>29</sup> The same month, 232 indigenous members of seven communities filed a complaint with the IDB's independent accountability mechanism, the Independent Consultation and Investigation Mechanism (MICI), highlighting "[t]he Project's increasing pressure on the communities, ignorance of community decision-making..., and constant intimidation and unceasing persecution of leaders who question the Project..."<sup>30</sup> According to the complaint, more than 40 indigenous people who spoke out were subjected to criminal proceedings<sup>31</sup>; others had their basic services like electricity and health care cut off; others were subjected to physical attacks; and there were reports of known hit men looking for prominent community leaders.<sup>32</sup>

IDB states that project staff worked to resolve tensions - to mediate between those opposed and in support of the project and to ensure that the voices of the community were heard - but that the level of conflict was too great.<sup>33</sup>

Eventually in February of 2013, the project sponsor reportedly decided to stop construction and began a debt restructuring process with IDB and other creditors.<sup>34</sup> Though IDB did not disburse the final payments to Mareña, communities were not informed of the status of the project nor IDB's involvement. Tensions continued. In March, four community members in San Mateo del Mar were allegedly detained by police, beaten and threatened with hanging for their opposition to the project.<sup>35</sup>

In May 2013, the project was relocated to the area of Juchitán de Zaragoza and El Espinal, 50km away from San Dionisio, under a new name - Eólica del Sur.<sup>36</sup> Soon after, the project was accredited under the United Nations Clean Development Mechanism.<sup>37</sup>

In November 2014, under pressure from the international community and citing requirements under recently enacted energy legislation, the Mexican government decided to initiate a free, prior and informed consultation process for Eólica del Sur.<sup>38</sup>

The process, however, was deeply flawed.<sup>39</sup> Human rights experts questioned the characterization of the consultation as a "prior" consultation, given that the project permits were granted before the consultation process was finalized.<sup>40</sup> Consultation proceedings quickly became tense. A human rights observation mission documented at least 32 security incidents, including threatening phone calls and harassment of members of the Popular Assembly of the Juchiteca People (APPJ) and APIITDTT by government and company representatives.<sup>41</sup> Participants reported not feeling safe to speak after being characterized as "anti-development."<sup>42</sup> APPJ and APIITDTT eventually withdrew from the consultation. In fact, it is reported that only 0.5% of the population was present for the final vote.<sup>43</sup> In July 2015, the Government declared the process a model consultation and show of support for the project.<sup>44</sup>

Over a thousand Juchitecos, together with civil society groups and indigenous peoples organizations, petitioned to stop construction, and on December 11, a District Court granted an injunction.<sup>45</sup>

In January 2016, IDB transferred the Mareña restructuring to IDB-Invest, the Bank's new private sector arm. In September 2016, the MICI released its investigation report, finding that the IDB failed to comply with requirements to ensure good faith consultation with indigenous peoples.<sup>46</sup> The report also found that the "Bank failed to identify in a timely fashion the conflictivity of the area and the impact it could have..." noting significant limitations in analysis of social impacts and lack of mitigation plans. MICI found that the IDB lacked adequate guidance for situations of social conflict, stating that "[r]emaining on the sidelines as an observer of violent events is not the best alternative, and inaction could even exacerbate the social conflict."<sup>47</sup>

The IDB Board of Directors agreed with the findings, and as a result, the Bank developed new guidance on consultations and social assessment.<sup>48</sup> Unfortunately this provided little benefit to the communities impacted by the Mareña conflict and those who would be impacted by Eólica del Sur.

"We don't want wind projects in the Barra de Santa Teresa - Get out Mareña Renovables."



Throughout 2016 and 2017, legal battles over Eólica del Sur continued with injunctions and suspensions being granted and overturned.<sup>49</sup> In April 2017, Alberto Toledo Villalobos, one of the coordinators of APIITDTT and a leader in the fight over electricity tariffs, was beaten to death.<sup>50</sup>

In May 2017 the restructuring from Mareña to Eólica del Sur was complete, with IDB, MMIF and PGGM transferring their rights and obligations to Eólica's new equity holders -- BalamCK16, Fonadin and Mitsubishi -- with financing from EKF, Banobras, and Mexico's main development bank, Nacional Financiera.<sup>51</sup> BalamCK16 had been established as a parallel fund to Balam Fund,

which was set up in 2013 by IDB, the Development Bank of Latin America (CAF) and the Japanese Bank for International Cooperation (JBIC).<sup>52</sup> While these banks are not financing Eólica del Sur, they arguably have influence with BalamCK16 and could have voiced concerns with the project.<sup>53</sup>

Meanwhile, throughout 2017 the harassment and attacks against Bettina and the others who had filed for injunctions increased.<sup>54</sup> *“Every time we present a legal action at the national or international level, our lives and that of our communities are put in danger,”* explains Bettina. *“Each time we advance, the risk increases.”*<sup>55</sup>

In January 2018, the Inter-American Commission on Human Rights ordered Mexico to ensure protection for Bettina and her family.<sup>56</sup> That same month, the Supreme Court agreed to hear three petitions for injunction from indigenous communities.<sup>57</sup>

Meanwhile, in spring of 2018, Eólica del Sur restarted construction. The division and conflict that flared up around Mareña and Eólica del Sur continues to take a violent toll. On March 29, 2018, just prior to scheduled elections, five community members of San Dionisio del Mar were shot during a religious celebration.<sup>58</sup> Civil



Indigenous women protest outside the Supreme Court October 2018.

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society groups believe the attack and the mounting electoral tension can be traced back to the social conflict over Mareña.<sup>59</sup> On July 24, 2018, Rolando Crispín López, an active member of the resistance against the Mareña and Eólica del Sur projects, was shot and killed by an assailant in an unmarked car.<sup>60</sup> In November, the Supreme Court denied the injunctions against Eólica del Sur and upheld the consultation as legitimate.<sup>61</sup>

## Endnotes

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