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Critical Consciousness Development through Indigenous Public Consultation in Baja California

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Indigenous groups have been historically oppressed by the colonial system and afterwards by the neocolonial capitalist system and have been marginalized from public decision-making. This research analyzes how the process of public consultation to Indigenous groups in Baja California, Mexico on political representation functioned to ignite critical consciousness and political participation of Indigenous peoples, even if the goals of the consultation were to comply with a court resolution only, without the goal of really achieving any of this. The consultation ultimately led to the political mobilization of Indigenous peoples in defense of their right to political representation, and calling out Indigenous identity faking by “pretendians”. By encouraging discussion and dialectical interactions, the consultation served as the space where Indigenous peoples developed critical consciousness to advance towards their self-determination and emancipation from neocolonial oppression in non-formal spaces. The research was conducted with a qualitative methodology, through the case study of the process mentioned in Baja California. I used participatory observation, conducted a semi-structured interview, as well as bibliographic and hemerographic review to gather the data for this article. The analysis of the case is based on theoretical and epistemological approaches of decoloniality, critical pedagogy, critical consciousness and participatory democracy.

Legal Context

For this research, it is necessary to know the context of the right to participation and political representation of Indigenous peoples in Mexico, since Indigenous peoples have historically been marginalized from public decision-making and the political arena. In this regard, in December 2017 the Superior Electoral Court of the Judicial Power (TEPJF) modified agreement INE / CG508/2017 of the General Council of the National Electoral Institute (INE) to strengthen measures in favor of Indigenous peoples, establishing that in the 13 federal electoral districts with the highest percentage of Indigenous population political parties have to present only Indigenous people. This measure was not well taken by political parties, since parties such as PRD (*Partido de la Revolución Democrática*) challenged it, however this challenge did not proceed, since the plenary considered that INE can establish guidelines to make constitutional principles effective (such as the rights of Indigenous peoples), through the implementation of affirmative action (Tribunal Electoral del Poder Judicial de la Federación 2017). This, although it was an important advance, is insufficient since there are currently 300 federal electoral districts in Mexico, and Indigenous candidacies were secured only in federal electoral districts that have 60% or more Indigenous population. (Vázquez Correa 2020). However, in January 2021, the General Council of the National Electoral Institute (INE) modified the criteria for the registration of candidates for federal legislators, establishing that all parties must present only Indigenous people in the 21 districts with the highest percentage of Indigenous population, of which eleven must be women. (Redacción 2021b), as well as nine other Indigenous candidates must be nominated through the plurinominal route, to achieve a total of 30 Indigenous members in Congress; this is a positive change that increases the possibility of Indigenous political representation. This measure has served as a decisive precedent for states to establish affirmative actions at the local level for political representation of Indigenous groups, as in the case of the guidelines

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established by the State Electoral Institute of Baja California (IEEBC), as a result of the public consultation carried out for Indigenous groups in Baja California.

Gender parity in Indigenous candidates, as established by INE in 2021 and in the reform of the LGIPE of 2020 is extremely important, since although *machismo* has decreased in the last 20 years, there are still many Indigenous communities in Guerrero where it is still very latent, as the feminist and Indigenous activist Martha Sánchez Néstor has stated (Lamas 2016). This is also supported by Indigenous activists Celfia Duarte (Pirinda Indigenous group) and Itzel Jarquin (Chontal Indigenous group), who declared that in some Indigenous communities of Michoacán and Oaxaca women are prevented from owning a home and/or business, they are prevented from accessing positions of Indigenous authority, and from having higher education (Márquez Duarte 2020a, 2020b).

Likewise, it is important to point out that in order to guarantee the efficiency of the political representation of Indigenous peoples, candidates must prove qualified self-adscription; to have this criterion, Indigenous persons seeking candidacy must meet two requirements: having provided community services in a free and disinterested manner (not as part of the work of a paid public office) or held traditional authority positions in Indigenous communities, as well as having a document issued by a traditional authority and recognized Indigenous organization that establishes that the person is, indeed, Indigenous and specify to which group it belongs (Tribunal Electoral del Poder Judicial de la Federación 2017).

On the other hand, there are rights that depend for their effective execution on state governments and state legislation. In this case, for the right of Indigenous peoples to political representation and participation to be exercised, affirmative action in this area must also be a reality at the local level, both in local congresses and in *ayuntamientos* (equivalent to city councils). That is why in the reform approved in April 2020 to article 26 of the General Law of Electoral Institutions and Procedures (LGIPE) it was established that Indigenous peoples have the right to elect their representatives in municipalities according to their internal procedures, in accordance with the provisions of article 2 of the Constitution. This reform also specifies that the progressive implementation of gender parity in the election of Indigenous authorities must be ensured, as well as the right to elect representatives to municipalities with Indigenous populations (Vázquez Correa 2020).

Theoretical Framework

The focus of the theoretical discussion is to elaborate how critical consciousness is central to political mobilization and participation, explaining what happened in the case of the Indigenous consultation in Baja California, organized by IEEBC in the subject of political representation. As a form of theoretical context, the approaches of decoloniality and critical interculturality are relevant to this research, since they provide the basis for the analysis of public consultation as an exercise of critical consciousness development of Indigenous peoples in Baja California (BC), complemented with participatory democracy approaches that allow analyzing how participatory exercises are constituted as exercises of citizenship and democratic formation in a critical way. To begin to discuss the approaches of interculturality and decoloniality it is necessary to understand where they come from. Both decoloniality and interculturality arise as a response to the colonial oppression that was imposed by western countries on “developing” countries. For this article, “Abya Yala” is used to refer to Latin America, as a decolonial way of calling it, this term was created by the Puna/Guna Indigenous peoples who reside in what is now Panama and Colombia (Del Valle 2015).

It is important to discuss that decoloniality and interculturality criticize the different “colonialities” imposed in Abya Yala, such as the coloniality of power, knowledge, being and nature. The coloniality of power manifests itself in the establishment of a discriminatory and oppressive state structure, where black and Indigenous peoples are the most oppressed, using race as the basis of asymmetrical and violent power relations. The coloniality of knowledge refers to the position that western knowledge is the only valid and superior, marginalizing other epistemic rationalities, knowledge and *saberes*. There is also the coloniality of being, which is exercised by dehumanizing all people who do not fit the western colonial model; this coloniality gives rise to the form of nation-state that is in all the countries of Abya Yala, which have historically oppressed Indigenous groups, as well as black peoples, dehumanizing them and categorizing them as uncivilized and inferior. A final form of coloniality is that of Mother Nature. This coloniality

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destroys and appropriates all life (animals, plants, rivers, hills, seas, etc.) justifying itself on the oppressive and unsustainable premise that all life is there for the elites to exploit for their benefit (Quijano 2000, 2015; Walsh 2008). The colonialities approach is directly relevant because coloniality of power imposed a form of Nation-state structure that was designed to marginalize the groups that were deemed as inferior, intertwining with coloniality if being. This structure and hierarchy violently left out Indigenous peoples from not only public-decision making but also from being rights-bearing subjects formally and in practice, so much that Indigenous peoples were not considered as rights-bearing subjects when Mexico became an independent country, and at the same time severing their communitarian relations between Indigenous peoples. Coloniality of knowledge was imposed with the power structure of the colonial Nation-state, which was perpetuated after the independence of countries that were colonized. Only white men, both European and directly descended from Europeans, had access to formal education. Moreover, the colonial powers that invaded the Abya Yala erased all the forms of knowledge that Indigenous societies had, by destroying the temples and cities of Indigenous societies, by burning codices and manuscripts of incredible value and knowledge from different Indigenous societies, and by prohibiting the governance structures and public decision-making process of Indigenous societies. Both of these intertwined processes part of coloniality of knowledge, have led to the marginalization of Indigenous peoples from formal education, as well as dissolving their unique political organizations, structures and decision-making processes, which explain the lack of political mobilization, political participation, and political consciousness of Indigenous peoples in Baja California, before the Indigenous consultation. Finally, coloniality of Mother Nature allowed colonial elites to take and ravage the lands of Indigenous peoples, further imposing a disconnection from their communitarian organizations, structures and land-based practices.

Another way in which coloniality of being manifests is assimilation, which for centuries has sought to impose a homogeneity based on the image of what is established by western modernity, destroying all other cultures and perpetuating oppression in subaltern people. These structures imposed in the countries of Abya Yala, remained after the independence from the European empires, strengthening an oppressive State structure exercising an internal colonialism (González Casanova 2006), where wealthy white elites exercise power, control and exploitation on most people, especially Indigenous groups. This has led in several countries to a simulated interculturality, which goes against the essence of it, that is; a critical interculturality that questions the differences and inequalities imposed by western colonial regimes; that seeks the construction of societies with real equality recognizing the differences of sociocultural groups, to empower groups that have been historically oppressed (Ferrão Candau 2010, pp. 147, 152). This reflection is important for this work, since one of the main results of this research is that, while the exercise of public consultation for Indigenous peoples in BC emerged as a form of simulated interculturality and assimilation by political institutions, it encouraged Indigenous groups in Baja California to further develop their critical consciousness and begin to raise their voices and resist marginalization in public decision-making processes. Indigenous peoples that participated in the consultation were motivated to mobilizing politically in a more organized and solid way, managing to take public spaces, and visibility, thus resisting marginalization.

To complement the theoretical discussion, it is important to discuss participatory democracy, which can be defined as the set of participatory instruments that go beyond representative democracy, since it contemplates greater direct political participation (Márquez Duarte 2018). Some of the factors that are considered in participatory democracy are the importance of the local context, the horizontality in political decision-making, and the transcendence of participatory instruments (such as referendum, plebiscite, among others) (Ramírez Nárdiz 2016). The public consultation is also considered as a participatory instrument. So, the model of participatory democracy can be explained as one in which there is a maximum input– which is citizen participation – required, where the *outputs* not only include public decisions, but also the development of capabilities of individuals that allow them to exercise this citizen participation (Pateman 1970, p. 43), becoming a virtuous circle of participation generating participation. This is extremely important for this research, since a main argument of this work is that the public consultation exercise has functioned as a space for capabilities development and critical consciousness in Indigenous groups, which in turn has fostered this virtuous circle of fostering participation and mobilization.

Finally, it is crucial to complement the discussion with critical consciousness development. The Brazilian educator Paulo Freire (1970) within his proposal of critical pedagogy, develops the concept of *conscientização*, which can be understood as critical consciousness; this process develops when oppressed individuals become aware of the

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oppressive structure in which they live. The process of critical consciousness development is guided by an educator; however, it does not necessarily refer to a teacher in a school, but to an individual who ignites the spark that leads individuals to realize for themselves the oppressions they suffer. This process arises through the dialectical and horizontal discussion of ideas, realities and experiences, as opposed to banking education where knowledge is imposed in a vertical and authoritarian way. The pedagogue argues that the development of critical consciousness implies a collective commitment to society that includes political participation and public decision-making. This article argues that public consultation has functioned as this space, where Indigenous participants themselves are the ones who have developed their critical awareness and articulated strategies of mobilization and political visibility to resist marginalization from public affairs, acting themselves as the educators. It wasn't the staff of the state institutions that organized the consultation that made Indigenous peoples realize their situation of oppression, it was Indigenous peoples themselves, that after the betrayal felt by political parties, state institutions, and politicians (manifested through faking Indigenous identity for an elected position), that critical consciousness was further developed. It was the dialectical interactions between Indigenous peoples and the defense of their right to political representation, through the space of the consultation, that allowed them to develop critical consciousness.

On the other hand, it is relevant to discuss the arguments that Elsie Rockwell has put forward, based on conducting fieldwork with Indigenous communities in México, too. Rockwell (1999) states that learners internalize the tools and knowledge perceived in their social contexts. Moreover, she argues that critical thinking is not only an abstract cognitive skill, but a matter of real thinking. The fact that she refers to it as a real thought, not an abstract cognitive issue, means that it is constructed through the perception and construction of reality of individuals. Critical consciousness, then, is not only a topic that educators present to students in a classroom. In order for individuals to develop a critical consciousness, it is necessary for them to carry out practices and exercises that allow them to build consciousness, with the help of a guide, who could be one of the members of the group. For this reason, critical consciousness cannot be framed only in a context of formal education, but can be developed in non-traditional spaces, where alternative interpretations of reality are represented or discussed (Márquez Duarte 2019).

Critical consciousness is also developed through political organizing of communities, which can be done through participatory exercises, and door-to-door canvassing. These are "...attempts to organize people for these immediate interests, but simultaneously to awaken the political consciousness of these districts. Such educational work, however, does not take place only in slums. There is also the famous "doorbell-ringing campaign" (Marcuse 1971, 91). Marcuse further explains that critical consciousness is further refined through public demonstrations and protests: "Now the liberation of consciousness of which I spoke means more than discussion. It means, and in the current situation must mean, demonstrations, in the literal sense" (1971, 94).

Based on these theoretical approaches, the rationale behind the critical consciousness development is the following: Indigenous individuals that participated in the consultation learned about affirmative actions, and that the institution that organizes elections in Baja California was legally mandated to secure spots exclusive to Indigenous individuals for specific elected positions. Indigenous individuals connected with each other during these consultations and stayed in touch. These individuals shared the information with other members of their families and community through door-to-door canvassing. They began to be approached by different political parties to cover the positions required by law to have Indigenous candidates. However, several political parties presented individuals as "Indigenous" without being Indigenous, sparking outrage in Indigenous communities. Since Indigenous peoples in Baja California already knew of the affirmative actions that were required by law, and since some of them were approached by political parties without making them candidates, Indigenous groups decided to mobilize organizing protests, denouncing the situation in local media, and taking public spaces. The protests not only were targeting the "pretendians" (non-Indigenous people faking Indigenous identity to seek an elected position), but they also targeted IEEBC, who was the institution that organized the consultation and that is in charge of organize local elections in the state. All this process was only possible thanks to the Indigenous consultation turning into a space of critical consciousness development.

Field Findings: Public Consultation and Results

On Sunday, 8 November 2020, the public consultation of Indigenous peoples was held in five venues, to know the

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ways in which Indigenous people wish to participate politically and electorally in BC in the 2021 local electoral process, where mayors, local assembly members and governor were elected, a process that ties with the federal electoral process where federal members to Congress were elected. IEEBC stated that the Indigenous consultation is a collective right of Indigenous peoples and communities to participate in situations that involve an infringement of their fundamental rights. They also stated that the purpose of the consultation is to receive opinions, proposals and approaches on principles, rights, mechanisms and contents of Indigenous affirmative actions in terms of political-electoral representation. When questioned how the IEEBC would ensure that the proposals reached in the consultation were adopted, the officials commented that the proposals reached in the consultation would be analyzed and compared with the proposals reached in the Indigenous consultations held in Ensenada, Tijuana, Tecate and San Quintín by the IEEBC, and that have to contain legal viability. According to this analysis, guidelines were established by the Institute's Substantive Equality and Non-Discrimination Commission, which would have to be complied with by political parties in BC as of the 2021 local electoral process. One point to consider is that the local electoral process began on December 6, 2020; The fact that the consultation was carried out less than a month after its start is a factor that affected the process.

It is important to highlight that, although only the councilors of IEEBC can vote to approve or not the verdict, in the sessions of all the commissions as well as the general council, the representatives of political parties have a voice and can demand and/or propose changes to the verdicts, as happened in this issue. Moreover, political parties can challenge the guidelines and verdicts of IEEBC. In this case there are relevant precedents, such as the attempt to challenge the decision of the Supreme Court of Justice of the Nation of December 2017 that forced political parties to nominate only Indigenous candidates in the federal districts that had 60 per cent or more of Indigenous population, although the challenge did not proceed. However, in local electoral processes in some states, political parties challenged and achieved to revoke these measures, as in Hidalgo; it is important to ensure mechanisms so that the proposals of the Indigenous consultations are carried out and that they are viable and in accordance with the law, so that the parties do not have sufficient grounds to challenge them.

The consultation held in Mexicali was attended by 14 people, including me, also present were officials from IEEBC (organizing institution), two people from the National Institute of Indigenous Peoples (INPI) in BC and two people from the State Human Rights Commission of BC. The consultation in Mexicali was chaired and moderated by the executive secretary of the IEEBC. Among the attendees were people from the Cucapáh Indigenous group, as well as the Zapotec Indigenous group and the commissioner of the comuneros, who are the people who have collective ownership of Cucapáh communal lands, however, this person is not Cucapáh.

The methodology of the consultation was as follows: five thematic axes were discussed in this order: 1) Political-electoral representation of Indigenous people in BC 2) Independent Indigenous candidacies 3) Nomination of Indigenous candidates by political parties 4) Gender equity to guarantee the participation of Indigenous women 5) Other affirmative actions that seek to reverse the oppression and historical inequality that Indigenous peoples have experienced for hundreds of years. From each axis, the proposals were discussed and collected and the best proposal was selected by direct voting of participants, although considering the legal feasibility, so the IEEBC staff commented when a proposal already existed or when it was not viable so that the proposal that was selected by axis was feasible. The results of the consultation were collected through participatory observation and the final drafting of the IEEBC guidelines (Proyecto de Dictamen: Lineamientos de acciones afirmativas para el proceso electoral local ordinario 2020-2021 en Baja California, 2020).

In the first thematic axis (political-electoral representation of Indigenous people in BC) proposals and opinions were discussed on why the political-electoral participation of Indigenous groups (as candidates) should be guaranteed and how it can be achieved. In this regard, the participants referred to the fact that the person to represent them has to be a person with empathy and who knows the problems and needs of Indigenous peoples. With regard to specific proposals, two were made: that within the guidelines of the IEEBC the figure of Indigenous *regiduría* be instituted, so that at least one Indigenous councilor would be in each of the municipalities of BC; and to ensure that there was permanently an Indigenous councilor, it was proposed that Indigenous peoples of each municipality should elect the Indigenous councilor according to their customs, to avoid that the Indigenous candidate was positioned by the political parties at the bottom of the lists, which would prevent Indigenous candidates to be councilors. It was also

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proposed that in local districts with the largest Indigenous population, parties should be forced to propose only Indigenous candidates. The proposal that was selected in this axis was to establish a permanent quota in the council of each municipality of BC for an Indigenous councilor, so that participation was assured. Likewise, it was highlighted that for the issue of the Indigenous candidacy in the districts with the largest Indigenous population, an accurate census of all Indigenous people in BC would have to be made, which has not been carried out and would not be ready for the 2021 local electoral process.

The proposals of the other consultations carried out in the state coincide with these points and also dealt with the establishment of Indigenous quotas for local councils, as well as to establish an Indigenous advisory council to monitor respect for Indigenous political participation and representation. It was also proposed to prepare a comprehensive census to know with certainty the amount of Indigenous population, and from which Indigenous group the inhabitants of the state come.

Regarding the second thematic axis (Indigenous independent candidacies), opinions and proposals were discussed on the relevance of proposing affirmative actions for independent Indigenous candidacies, however, the participants highlighted the excessive difficulty of achieving an independent candidacy with the current processes, not only because of the necessary legal bureaucracy, but also because of the cost involved in the necessary processes (with a modest estimate there would be needed around of 12,000 pesos only to be able to reach the stage of the meeting of signatures, later for the gathering of signatures another important amount of economic resources would be needed, as well as human resources and persuasion capacity to obtain the signatures), it was also highlighted that a majority of the attempts of independent candidacies in BC have not been achieved due to the requisites. So, it was decided not to propose affirmative action on this issue.

In the other consultations, the same conclusions were reached. On the other hand, it was proposed that for independent Indigenous candidacies to be viable, they would have to change the requirements according to the number of Indigenous people in the localities, as well as make the processes more flexible so that they are truly accessible.

In the third thematic axis (nomination of Indigenous candidacies by political parties) it was discussed and proposed that the IEEBC should be the body responsible for having Indigenous candidates for elected positions in the local electoral process, so that it would be mandatory for political parties to nominate Indigenous candidates. However, no specific proposals were reached, because of the issue already discussed: there is no specific census in BC of Indigenous people. In this axis, the proposals of the other consultations in BC were similar to those of the consultation in Mexicali.

In the fourth thematic axis (Gender equity to guarantee the participation of Indigenous women) proposals and opinions on the subject were discussed, and one aspect to highlight that is unfortunate, is that only one woman participated highlighting that Indigenous women still suffered from a lot of *machismo*; the other participants were men. Three specific points were proposed, of which one was not included; to include in the guidelines of IEEBC a point related to prohibiting gender-based political violence and punishing it in case it arises. This point was not included since the staff commented that it was already proposed in both the National Electoral Institute (INE) and in IEEBC, a guideline to avoid and, where appropriate, sanction, gender-based political violence, where people who have exercised this type of violence are not allowed to participate in any electoral process. The other two proposals that were included in this axis were to carry out specific training courses for the political participation of Indigenous women by IEEBC but ensuring that the people who taught them were experts in the field and that they were women, because otherwise it would be a simulation. The other proposal seemed like an attack on real gender equality, since more than one man declared that neither IEEBC nor the government can interfere with the customs of Indigenous peoples and that if these customs allow women to be marginalized and subject to violence in political matters, it had to be respected. However, in Mexico, human rights established in the Constitution (including gender equity in all areas) have primacy over customs, just as international treaties are at the same level of primacy of human rights, and in case of controversy the Supreme Court should solve it according to the instrument that provides more rights to people, therefore, gender equity must be ensured.

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In this area, similar controversies were presented in the other consultations held in BC, however in the proposals of the consultations of San Quintín and Tijuana it was perceived that there was greater openness to incorporate Indigenous candidacies of women, there were even proposals to establish gender parity quotas in Indigenous candidacies.

Regarding the fifth and last thematic axis (other affirmative actions that seek to reverse the historical oppression and inequality experienced by Indigenous peoples), the agreed proposals were recapitulated and the discrimination and racism suffered by Indigenous people was discussed. For example, two Indigenous women said that Indigenous children are ashamed to speak their language because of the discrimination they suffer, they also commented that parents tell their children not to speak their language in front of non-Indigenous people because of the racism they have suffered, this causes the language to be lost and that being Indigenous is considered something negative, when it should be a source of pride, to which it was proposed that IEEBC offered an online course about Indigenous peoples in BC, as well as the history of oppression they have suffered and the importance of revitalizing and making visible their cultures. The proposals of the other consultations in BC were similar, and in the San Quintín consultation it was proposed to create a Secretary of Indigenous Affairs in the government of BC.

Finally, the measures that IEEBC established in the guidelines as affirmative actions for Indigenous political representation were: As for the local congress, it was established in the guidelines that at least two of the 25 assembly members of the BC congress have to be Indigenous people. These same guidelines establish that if they have not obtained the first place in any of the 17 local electoral districts in BC, Indigenous candidates will be able to access these two seats by the principle of proportional representation, respecting the principle of gender parity, so that an Indigenous assembly member must be a woman and another a man. For the Indigenous councilors, based on the 2015 INEGI intercensal survey, it was decided that each municipality must include at least one Indigenous councilor in its list of candidates to integrate the council, except Ensenada, which due to the relative amount of Indigenous population must include two, one woman and one man. The Indigenous councilors must run in the first four places of each party list to guarantee that at least one Indigenous councilor is reached in each municipality and thus have councils with greater representation of the sectors of society.

The information gathered through fieldwork in the consultation was complemented by interviews with key actors; Edgar Montiel (27 November 2020), an Indigenous Mixtec from Tijuana, who has been an activist on Indigenous issues and one of the main promoters of affirmative action for Indigenous peoples in BC, was interviewed. In this regard, Edgar stated that the parties in the IEEBC Council tried to block the establishment of affirmative actions for the participation and political representation of Indigenous peoples, wanting to postpone the council's decision so that affirmative actions are not established for the local electoral process. He also commented on the process that began in order for IEEBC to establish affirmative actions on the subject:

In August 2018, I began the process in order for IEEBC to respect the Supreme Court's ruling regarding Indigenous representation (affirmative actions). The public defender's office contacted me to accompany the legal process; on September I asked IEEBC about affirmative actions and it said they did not know, so I sued the IEEBC so that in the 2019 electoral process they incorporated them, by December 2018 they summoned me to a hearing at the IEEBC and told me that affirmative actions did not proceed because they do not know about the subject. This is why I went to TJEBEC and was told that my demand was dismissed; I then went to the regional court of Guadalajara and they told me the same, from there I went to the Superior Court of the Federal Electoral Tribunal, which ruled in February 2019 in the hearing, then the sentence was given in my favor. But as the BC electoral process was already well advanced it could not be implemented at that time. In August 2019 I began to return to the issue with IEEBC, already with the sentence in my favor to implement the measures. In December 2019 they summoned me to a hearing and delayed the discussion, citing me again in February 2020, where they tell me that they already had a work plan. In March they announce that they move the beginning of the electoral process to December. In August we had another hearing and they told me about the forums and the consultations that they plan to organize and in October the information session comes, in November the consultation and you know the results. (E. Montiel, personal interview, November 27, 2020)

Additionally, participatory observation was conducted of the sessions of the General Council of the IEEBC, as well as of the Commission on Substantive Equality and Non-Discrimination, to investigate the process and the final result of

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affirmative actions for Indigenous people. The session of the Commission was held on 27 November 2020, where some political parties showed clear opposition to establishing these affirmative actions.

In the session, IEEBC councilor Viridiana Maciel clarified that in order to arrive at affirmative actions, a review and analysis was carried out through several working meetings in the commission where the political parties were present. However, some party representatives did not want to discuss the issue (*Movimiento Ciudadano* (MC)) and *Redes Sociales Progresistas* (RSP)), asking for a recess to review the changes (which were only changes of numerals not content), even the RSP representative interrupted the technical secretary more than once, saying that they could not evaluate the verdict without recess. MC and *Partido de Baja California* (PBC) said that with that quotas they are favoring a vulnerable group over others (an argument that has already been rejected in the attempt to challenge affirmative actions at the federal level, established by the Supreme Court, because the essence of affirmative actions is to establish a minimum floor of positive rights, not restrictive rights). Likewise, the representative of *Partido Acción Nacional* (PAN) questioned the validity of the consultation due to the low number of people who participated, to which counselor Viridiana replied that all the available resources of IEEBC for the consultation were used, considering the difficult situation of the pandemic. On the other hand, the number of people who have participated in the consultation is not a principle of validity or not of the consultation.

Likewise, through participatory observation, the extraordinary session of the general council of IEEBC was attended on 30 November 2020 to decide on affirmative actions; At this session, the verdict was approved unanimously with seven votes in favor (all the councilors of the General Council). Some political parties in BC appealed this verdict on affirmative actions. The reasons presented by the parties that challenged (PAN, PT and MC), were that the defined quotas are 'too much' for the Indigenous population in BC. Moreover, they asserted that IEEBC did not carry out an adequate consultation to reach these actions (Ramírez 2020). The assertion that quotas are "too much" shows the racist stance of these parties, and is another example of the coloniality of being and power. On this appeal, the Electoral Justice Court of Baja California (TJEB) resolved file RI-47/2020 in favor of these parties, annulling articles 20, 23 and 30 of the guidelines on affirmative actions; Guidelines 20 and 30 are regarding Indigenous political participation (what was previously approved by the IEEBC on the establishment of Indigenous local councilors and assembly members in BC) (Redacción 2021a). However, this resolution was appealed by Edgar Montiel, and on February 11, 2021, the regional court of Guadalajara of the TEPJF ruled in favor of the Indigenous activist, invalidating resolution RI-47/2020 of TJEB of January 2021, so it was determined that "contrary to what was held by the Electoral Justice Court of the State of Baja California, the affirmative measures to postulate the formulas of Indigenous assembly members and councilors, implemented by the Local Electoral Institute are suitable to achieve a legitimate end and are in accordance with the Constitutional order". Since this court has a higher hierarchy than TJEB, its resolutions have preponderance over it, so when IEEBC guidelines were confirmed by the regional court, they became unappealable.

Critical Pedagogy: Indigenous Political Mobilization Following the Consultation

A central argument of this research is that the consultation has promoted the political participation of Indigenous people who had not previously mobilized politically in an organized and meaningful way and who had not been involved in electoral processes. Following participation in the public consultation, as well as the political parties' challenges to the IEEBC guidelines showing their racism and attempts to marginalize Indigenous groups from public decision-making, several Indigenous people began to demonstrate publicly and raise their voices to defend their right to political representation, as well as to seek a candidacy through Indigenous affirmative action in BC.

One example is that of Eleuterio Suárez in Tijuana, a Mixtec Indigenous leader, coordinator of the Indigenous Front of Binational Organizations (FIOB) and a speaker of Low Mixtec. Eleuterio sought an assemblymember candidacy for MORENA (*Movimiento de Regeneración Nacional*) through affirmative action. Although he was not granted the candidacy, when MORENA won the state elections he was appointed as sub delegate of one of the delegations of Tijuana. In this regard, I gave a free talk at the request of the study circle to which Eleuterio belonged, about affirmative actions for Indigenous representation in Baja California, where the actions were explained, as well as doubts that arose on the subject. Subsequently, Eleuterio's proposals were analyzed at his request, giving him comments on them and suggestions of pending issues towards Indigenous groups in Baja California. Eleuterio's

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proposals were:

- Create the Secretary for Indigenous Affairs that can promote the culture, language, crafts and traditional medicine of Indigenous groups in BC
- Creation of Indigenous intercultural high school and college, as they do not exist in BC
- Creation of the Council of Indigenous Elders in BC, according to customs of the communities, and so that through ancestral knowledge the common good of Indigenous communities is sought.
- Conduct a census of Indigenous population in Baja California.

Another element that shows how the consultation (although without the intention of doing so) has promoted consciousness, mobilization and political participation of Indigenous peoples is the struggle against the usurpation of Indigenous identity in elections. In the 2021 electoral process, Indigenous communities and organizations of the Nahuatl, Chol, and Tzeltal groups denounced that several of the people who became candidates through Indigenous affirmative actions were usurping Indigenous identity, without being Indigenous. Some examples were candidates for federal representatives from Chiapas of different parties such as the *Partido Verde* (PVEM), *Partido del Trabajo* (PT), PAN, MORENA (Bacaz 2021; Badillo 2021; García 2021), among others.

Moreover, in Baja California, Indigenous groups began to mobilize to defend their rights to political representation, especially demonstrating against candidates who ran through affirmative actions for Indigenous people, without being Indigenous, such as Miriam Cano of MORENA who posed as a Triqui Indigenous person without being one, Alejandra Bautista of the PAN-PRI-PRD alliance, who posed as a Mixteca Indigenous person without being one, Jorge Vega of MORENA who posed as a Kumiai Indigenous person without being one, Rigoberto Campos of PES who pretended to be a Cucapáh Indigenous person without being one (Delgado 2021; Márquez Duarte 2021b, 2021a; Redacción 2021c; Serrano 2021), among others. Thanks to the political and legal mobilization of Indigenous groups, TJECB, the Guadalajara regional court of the TE and IEEBC withdrew the candidacies of these people for usurping the spaces that are for Indigenous people.

In Baja California, a total of 10 people were denied their candidacies for usurpation of Indigenous identity: four candidates for councilors of Ensenada, two candidates for councilors of Mexicali, and two candidates for local assembly member and two alternates.

Of these cases, the most significant for the political mobilization it generated and its impact, was the struggle against the Indigenous usurpation of candidate Miriam Cano. Members of the Triqui community of San Quintín, led by lawyer and Indigenous activist Norma Cruz (Márquez Duarte, 2021b), mobilized to withdraw her candidacy for not being Indigenous, filing a lawsuit in TJECB, achieving to withdraw Cano as a candidate for usurping the spaces that are for Indigenous people. The ruling came from the regional court of Guadalajara, after TJECB arbitrarily ruled against the Triqui community, being the higher level in Guadalajara who gave the ruling in favor of the members of the Triqui community. Likewise, in Morelos, there were lawsuits against usurpation of Indigenous identity of candidates at the local level of parties such as “Futuro” (Bacaz 2021; Monroy 2021a, 2021b).

Due to affirmative action, for the first time in Baja California there are two Indigenous local assembly members: Evelyn Sánchez from the XI district of Tijuana and Dunnia Murillo from the XVII district of Ensenada. There is also an Indigenous councilor in Mexicali, Tecate, Rosarito and two Indigenous councilors in Ensenada and Tijuana. It should be noted that the Indigenous groups represented in the local assembly and city councils are: Mixteco, Purhépecha, Kumiai and Cochimí. The discussion in this section is an indicator that, as expected, political parties tried to ignore affirmative actions and even usurp the spaces reserved for Indigenous people in order to obtain and/or stay in power, but Indigenous groups resisted and raised their voices to defend their rights as a result of the development of critical consciousness that was intensified by the November 2020 consultation. The cases of usurpation of Indigenous identity show that it is not enough to recognize the right to Indigenous political representation in legislation, even to establish it in state and municipal legislation, since the dispossession and violation of the rights of Indigenous peoples continues. This situation is linked to the way in which political representation was established by the state.

Conclusions

Critical Consciousness Development through Indigenous Public Consultation in Baja California

Written by Fernando David Márquez Duarte

This research analyzed the process of the public consultation with Indigenous groups in BC on affirmative actions for Indigenous political representation and how this consultation served as a space that fostered the development of critical consciousness and political mobilization of Indigenous groups in the region, in non-formal spaces. The research was conducted with a qualitative methodology, through the case study of the process mentioned in Baja California. To collect the relevant information for the research, participatory observation, conducting a semi-structured interview, as well as bibliographic and hemerographic review were used.

In conclusion, it is argued that the public consultation served as the space that allowed critical consciousness development, political mobilization and political participation of Indigenous people in BC and movements in defense of their Indigenous rights. This manifested in the struggle for elected positions to local councils and the state assembly by Indigenous people, when prior to the public consultation and affirmative actions at the local level had not been manifested; this is despite the fact that the public consultation and affirmative actions emerged as a simulation attempt, but Indigenous peoples did not allow the simulation. This conclusion is sustained also on the public demonstrations against candidates who tried to usurp Indigenous identity to obtain elected positions that belong to Indigenous peoples through affirmative action, achieving the withdrawal of candidacies from non-Indigenous persons.

Even though at the time of the last draft of this chapter (November 2023) there are Indigenous assembly members in Baja California's Assembly, as well as Indigenous members in the city councils of each municipality in Baja California, there is a long way to go regarding significant political representation of Indigenous peoples in Baja California. The usurpation of Indigenous identity committed by non-Indigenous candidates and political parties was a very serious issue in the last elections. It is necessary that IEEBC and INE establish stronger measures with effective punishments to prevent non-Indigenous peoples to fake Indigenous identity in order to get a candidacy, beginning with a more serious way to determine qualified self-adscription of Indigenous identity. There is also the issue of the right to conduct their own decision-making processes of Indigenous communities. Indigenous communities in Baja California have continuously raised their voices to demand the respect of their self-determination rights, so they can choose their own Indigenous representatives and members of city council without political parties, but rather using their consuetudinary democracy methods. For further research avenues, the next electoral process in Baja California (2024) will be help to further analyze the issues discussed and spotlight the effectiveness of affirmative actions.

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