

The Wind Farm Corridor on the Isthmus of Tehuantepec (Oaxaca, Mexico)



By **Observatorio de Multinacionales en América Latina** (OMAL, Spain)

About the corporations

About the corporations: Iberdrola, Acciona, Renovalia, EDF and Gas Natural Fenosa (Siemens-Gamesa indirectly) have built and are operating several wind farms that together form the Isthmus of Tehuantepec Wind Farm Corridor.

Sectors: Energy and construction.

Countries of origin of the corporations' capital: Spain and France.

Places where the events occurred: Isthmus of Tehuantepec (Oaxaca, Mexico), municipalities of Juchitán, Unión Hidalgo and Santo Domingo Ingenio.

Name of subsidiaries: Iberdrola Mexico (Iberdrola, Spain), Demex (Renovalia, Spain), Eólica de Oaxaca and EDF EN México (EDF, France) and Fuerza y Energía Biñ Hioxo (Gas Natural Fenosa, Spain).

European corporations Iberdrola, Gas Natural Fenosa, Acciona, Renovalia and EDF are involved in the development of the largest wind farm corridor in Latin America, which is having numerous impacts on the territory and the predominantly indigenous population. The process to build the Isthmus of Tehuantepec Wind Farm Corridor has failed to guarantee the right to free, prior and informed consent and has involved the use of illegal means to modify community land ownership and false promises to trick the population into signing leases for their land. Even though wind power is considered clean energy, this megaproject is having multiple impacts on the territory, which range from changes to land use and environmental impacts to militarisation and the masculinisation of the territory.

The local population has mobilised to demand respect for the right to consultation, the annulment of the contracts signed in disregard of communal ownership and an end to repression. They also defend energy as a human right, and not a commodity. However, despite the various rights violations and the numerous court rulings still pending, lawsuits demanding the cancellation of contracts or petitions requesting the suspension of the projects initiated without prior consultation have been effective in only a few cases. In the meantime, the criminalisation of the population continues to increase.

Background

The development of the wind farm corridor on the Isthmus of Tehuantepec is part of a lengthy process to privatise the energy sector in Mexico. Consolidated by the constitutional amendments adopted to reform the energy sector in 2013, the process began decades earlier when measures were implemented to facilitate the entry of transnational corporations into the sector. While the more recent push for renewable energies emerged in response to opportunities to exploit a new natural resource for profit, it is mainly being fuelled by interest in “greenwashing” the reform, justified by a supposed need to privatise the sector in order to promote renewable energy sources in the country.¹ In fact, the energy reform and the promotion of FDI in wind power projects are part of a broader economic liberalisation process that started back in the 1980s, in the wake of the economic and political crisis. This period was marked by the explosion of the debt in 1982 and the conditional loans provided by the World Bank, the International Monetary Fund and the United States. Thus, the 2013 energy reform consolidated a turnaround in economic policy that began with the debt negotiations and the signing of the North American Free Trade Agreement (NAFTA) in 1994.²

The European Union, for its part, has also been involved in the economic liberalisation process in Mexico since it signed the first free trade agreement with the country in 1997. It is currently negotiating an update of the EU-Mexico Strategic Partnership. According to the European Commission (EC), the new agreement will maintain the level of access opened up by the reforms to the energy, telecommunications and financial services sectors. The EC also argues that it will

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THE EU AND THE CORPORATE IMPUNITY NEXUS
BUILDING THE UNBINDING TREATY ON TRANSNATIONAL CORPORATIONS AND HUMAN RIGHTS

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guarantee market access now and in the future and legal security for the expansion of its operations. Furthermore, the new treaty contains a chapter on energy, in which the parties agreed to promote energy efficiency initiatives and “climate friendly” technologies. This is a clear indication of the European Commission’s interest in continuing to promote the expansion of wind and solar power in Mexico in connection with the carbon credits market.³

The direct support from institutions such as the World Bank and the European Investment Bank (EIB) for the corridor’s development confirm this interest. The Eurus wind farm (Acciona) received financing from carbon credits generated by the wind farm of BBVA (Banco Bilbao Vizcaya Argentaria), as well as the World Bank and the Inter-American Development Bank.⁴ As for the EIB, it granted a EUR 78.5 million loan to the Iberdrola Group to finance the construction of La Venta III wind farm in 2010.⁵ It also created a line of credit for the construction of “climate action projects”, such as two wind power plants in different parts of the country. Through this line of credit, it lent EUR 85.9 million to the Mexican bank Nacional Financiera (NAFIN).⁶

The project’s impacts

The Isthmus of Tehuantepec is 220 km in length and covers an area of 4 million hectares, which is home to the greatest biological and ethnic diversity in the country. Five indigenous peoples live in the region: Binnizá, Ikoots, Mixe, Chontal and Zoque. Transnational capital has had its eye on the isthmus for centuries due to its highly strategic geographic location, as it serves as a point of passage between two oceans and, more recently, as one of the areas with the greatest potential for wind power generation in the world. This is what is driving the construction of the largest wind power corridor in Latin America. According to the Mexican Wind Power Association (AMDEE for its acronym in Spanish), there are currently 27 wind farms in operation on the isthmus and another 9 under construction, with an installed capacity of 2,360 MW. This capacity is expected to double by 2020. Of these 27 wind farms, 80% are in the hands of transnational corporations.⁷

The report entitled “The challenges of deploying wind energy in Mexico. The case of the Isthmus of Tehuantepec” (AIDA, FUNDAR, CEMDA, et al.)⁸ identifies the following impacts:

- a) Lack of information. The potential environmental impacts of the wind farms that are now affecting the population in the region were not mentioned at the time of the land negotiations.
- a) Threats and violence against communities who oppose the projects by paramilitary groups and state authorities.
- b) Lack of consultation processes to obtain free, prior and informed consent.
- c) Land leases that pay derisory amounts (according to members of the communities, around US\$ 0.10 per hectare).
- d) Absence of comprehensive benefits for the entire community (large corporations hoard 70% of the energy generated on the Isthmus).⁹

- e) Environmental impacts (burning of large swathes of pastureland, mangroves deforestation, soil contamination due to dust and lubricants, and impacts on migratory birds).

Furthermore, the signing of land leases is causing changes to land ownership and the destruction of the social fabric. The corporations are forcing people to negotiate the land contracts on an individual basis and sowing mistrust among the population by co-opting local leaders. These strategies have reconfigured community-based decision-making processes and marginalised women’s role in them. What is more, the presence of armed individuals in the territory is reinforcing dominant patterns of masculinity and generating a climate of insecurity, as it increases the risk of sexual assault. “Women defenders from the isthmus have denounced the exponential increase of phenomena such as forced prostitution [...] brought on by the arrival of workers from the companies in the region”.¹⁰

More concretely, some of the impacts generated in the different farms in the corridor are:

Iberdrola¹¹ (La Ventosa 2009, La Venta III 2011)

- Iberdrola’s Mexican subsidiary was accused of co-opting government authorities from the state of Oaxaca.
- The schemes used to get people to sign leases for their land have led the majority of renters to demand that the contracts be annulled.
- Neither the state nor the corporations guaranteed the right to prior and informed consent, and representatives of the company sowed distrust among the communities by offering money to members of the organisations.
- The Asamblea de los Pueblos del Istmo en Defensa de la Tierra y el Territorio (Assembly of the Peoples of the Isthmus in Defence of the Land and Territory) denounced Iberdrola representative Oscar Toral for intimidation and death threats.



Photo: OMAL



Asamblea de los Pueblos Indígenas del Istmo en Defensa de la Tierra y el Territorio (APIIDTT) Photo: OMAL

Renovialia Energy (Piedra Larga, 2011)

- The leases signed do not respect communal land ownership and interpreters were not used. Thus, the Comité de Resistencia (Resistance Committee) and Asambleas de Comuneros (the assemblies of community owners) filed a petition to request the cancellation of the contracts.¹²
- In February 2014, rights defender Bettina Cruz Velázquez was arrested. Also, prior to this, members of the Comité de Resistencia al Proyecto Eólico de Unión Hidalgo (Resistance Committee against the Wind Farm Project in Unión Hidalgo) were attacked after a peaceful demonstration against the Piedra Larga wind farm project¹³.

EDF - Électricité de France

(Gunaan Sicarú, Eoliatec del Pacífico and Cinco Palmas)

- In May 2018, the district court ordered the consultation process and the construction and operation of the wind power plant to be suspended definitively. The judge recognised “the lack of natural and social conditions to exercise the right to consultation” due to elections and the September 2017 earthquakes.¹⁴
- The ruling exposed the irregularities that the Energy Regulatory Commission (CRE) committed when it granted licences for the farms without having carried out a consultation process.¹⁵
- At the Cinco Palmas wind farm in the municipality of Santo Domingo Ingenio, the state police and the Agencia Estatal de Investigaciones (AEI, or State Investigations Agency) detained 11 communal landowners who were blocking access to it to demand payment for the lease of their land¹⁶.

Gas Natural Fenosa (Bíj Hioxo 2006)

- The Comité de Defensa Integral de Derechos Humanos Gobixha (CODIGO-DH, or Committee for the Integral Defence of Human Rights Gobixha) that provides support to the community received threats and their offices were raided.¹⁷
- In August 2013, a group identified as gunmen hired by Gas Natural Fenosa opened fire on the Asamblea Popular del Pueblo Juchiteco (APPJ, Popular Assembly of the Juchiteco People) during their visit to communal lands in Juchitán to document the damage that the construction of the Bíj Hioxo wind farm was causing in the area.¹⁸ Héctor Regalado Jiménez, opponent of the wind farm projects, died as a result of the attack. The corporation later disassociated itself from the events.
- More recently, in July 2017, the state police arrested 15 landowners who had leased their land and who were blocking access to the farm to demand that a negotiating table be set up to revise the contracts.¹⁹

Acciona (Eurus 2009, Oaxaca II 2012)

- The land leasers accused the corporation of misleading them with false promises, since the payments are low, are often delayed and do not cover damages to the land. The corporations have also mortgaged their land to fund the projects.²⁰
- In 2011, human rights defender Bettina Cruz and other assembly members received death threats during a protest against the wind farm and were detained²¹.
- In Santo Domingo Ingenio, communal landowners from the municipality “occupied” the Oaxaca II wind farm to demand that the corporation pay compensation for 150 hectares of crop that was damaged by the construction of a bridge. Because of this action, they received threats from the company representative, Celestino Pérez.²²

State participation

The state has not fulfilled its duty to defend the population's human rights, primarily the indigenous peoples' right to prior and informed consent. In the meantime, the state has created mechanisms that are extremely favourable towards transnational corporations. One example is the "self-supply" regime: although it was supposed to ensure the feasibility of the new energy distribution infrastructure, in practice, it generated a system of indirect subsidies for energy corporations.²³

Resistance and denunciations

In 2007, several community assemblies and peoples affected by wind power megaprojects in the state of Oaxaca came together to form the Asamblea de los Pueblos Indígenas del Istmo en Defensa de la Tierra y el Territorio (APIIDTT, Assembly of Indigenous Peoples from the Isthmus in Defence of Land and the Territory). In 2013, the Asamblea Popular del Pueblo Juchiteco (APPJ, the Popular Assembly of the Juchiteco People) was created, among others. These organisations have resisted the construction of the wind farms by disseminating information on their impacts, taking legal action and engaging in civil disobedience, such as roadblocks and camps. The women have played an active role in social organisations, even though they are at great risk. Between 2002 and 2014, 339 attacks on women rights defenders were reported.²⁴

The affected communities have also launched numerous legal proceedings. As we said earlier, in recent years, "approximately 180 lawsuits demanding the cancellation of sale and rental contracts for land in the Isthmus of Tehuantepec have been identified".²⁵ The lawsuits affirm that the corporations' actions were deliberate (omission of information) and premeditated, with malice aforethought and for their own gain. Furthermore, due to the conflicts generated, local organisations have also filed many requests for precautionary measures to protect several women human rights defenders.²⁶

It is worth highlighting that the amparo proceedings initiated by the community from Unión Hidalgo together with ProDESC is what managed to halt the consultation process for EDF's Gunaa Sicarú wind farm project. These proceedings were accompanied by other legal actions, such as complaints filed with the National Human Rights Commission in Mexico and the OECD National Contact Point in France.²⁷

There are still cases pending. The significant delays in reaching a final ruling is dragging out the conflict. In the case of the Bír Hioxo farm operated by Unión Fenosa Gas Natural, the Popular Assembly of the Juchiteco People filed a request for indirect amparo in which it requested the cancellation of the licences issued due to the violations of the indigenous peoples' rights. The Sixth District Court rejected the request for the definitive suspension of the wind farm in 2014 and presented an application for review. Since then, the constitutional hearing on the amparo has been postponed over 20 times due to various obstacles and justifications presented by the Sixth District Court in relation to the expert reports and evidence submitted.²⁸ Another case still awaiting a final decision is the land claim filed against DEMEX in June 2013 by communal landowners from Unión Hidalgo, together with ProDESC, requesting the cancellation of the contracts signed with the company.²⁹

Finally, human rights violations generated by the construction of the wind farm corridor were presented to the United Nations "Working Group on the issue of human rights and transnational corporations and other business enterprises" during its mission to Mexico in September 2016. One of the recommendations was that the state must guarantee "the realisation of prior and informed consultations of the communities affected by development projects and business operations".³⁰

ENDNOTES

- 1 Cárdenas, Jaime (2014)
- 2 Saxe-Fernández, John (2002)
- 3 European Commission (2018)
- 4 López-Toache, Vania, et al. (2016)
- 5 EIB (2010)
- 6 EIB (2018)
- 7 García-Torres, Miriam (2018)
- 8 AIDA, FUNDAR, CEMDA, et al. (2012)
- 9 Uharte, Luismi (2012)
- 10 García-Torres, Miriam (2018)
- 11 All information on Iberdrola was taken from Uharte, Luismi (2012)
- 12 ProDesc (2016)
- 13 ProDesc (2014)
- 14 SIPAZ (2018)
- 15 ProDESC (2017)
- 16 SIPAZ (2017)
- 17 CódigoDH (2014)
- 18 SIPAZ (2013a)
- 19 Rasgado, Rusvel (2017)
- 20 Siscar, Majo (2010)
- 21 Ramirez, Erika (2017)
- 22 Manzo, Diana (2014)
- 23 PODER (2011)
- 24 García-Torres, Miriam (2018)
- 25 PODER (2011)
- 26 SIPAZ (2013b) and ProDesc (2016)
- 27 ProDESC (2018)
- 28 Centro Prodh, CEMDA, et al. (2017)
- 29 ProDesc (2016)
- 30 Human Rights Council (2017)

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