On the energy security and the apologies of the extraction: the case of the industrial gas pipeline of the Huasteca Potosina, Mexico

Da segurança energética à apologia da extração: o caso do gasoduto industrial Huasteca Potosina, México

De la seguridad energética a la apología de la extracción: el caso del gasoducto industrial de la Huasteca Potosina, México

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Daniel Jacobo-Marín
PhD in Law by University of Jaen - Spain
Institution: El Colegio de San Luis
Address: San Luis Potosí - Mexico
E-mail: daniel.jacobo@colsan.edu.mx

ABSTRACT
This article analyzes the hegemonic argument on energy security and its configuration as the main postulate of the Mexican model of hydrocarbon extraction. It is discussed that energy security has been used in the official discourse to specify the dominant paradigm of production, use and consumption of fossil energy, consolidating the apology for extraction. The methodology is built based on a specialized selection of literature and a legislative review, as well as field work. The research is oriented towards the dialogue between theory and praxis, articulating three critical elements: (1) extractivism, (2) energy security, and (3) strategic litigation. It is concluded that the collective construction of legal-political strategies contributes to the jurisdictional defense of territorial rights.

Keywords: extractivism, energy security, energy policy, strategic litigation, Huasteca Potosina.

RESUMO
Este artigo analisa o argumento hegemônico sobre a segurança energética e sua configuração como principal postulado do modelo mexicano de extração de hidrocarbonetos. Discute-se que a segurança energética tem sido utilizada no discurso oficial para especificar o paradigma dominante de produção, uso e consumo de energia fóssil, consolidando a apologia da extração. A metodologia é construída com base em seleção especializada de literatura e revisão legislativa, além de trabalho de campo. A pesquisa está orientada para o diálogo entre teoria e prática, articulando três elementos críticos: (1) extrativismo, (2) segurança energética e (3) litígio estratégico. Conclui-se que a construção coletiva de estratégias jurídico-políticas contribui para a defesa jurisdicional dos direitos territoriais.

Palavras-chave: extrativismo, segurança energética, política energética, litígio estratégico, Huasteca Potosina.
RESUMEN
El artículo analiza la argumentación hegemónica sobre seguridad energética y su configuración como postulado principal del modelo mexicano de extracción de hidrocarburos. Se discute que la seguridad energética se ha empleado en el discurso oficial para concretar el paradigma dominante de producción, aprovechamiento y consumo de energía fósil, consolidando la apología de la extracción. El aparato metodológico está construido con base en una selección especializada de literatura, una revisión legislativa y trabajo de campo. La investigación se orienta hacia el diálogo entre la teoría y la praxis articulando tres elementos críticos: el extractivismo, la seguridad energética y el litigio estratégico. Se concluye que la construcción colectiva de estrategias jurídico-políticas coadyuva en la defensa jurisdiccional de los derechos territoriales.

Palabras clave: extractivismo, seguridad energética, política energética, litigio estratégico, Huasteca Potosina.

1 INTRODUCTION

The objective of this essay is to analyze energy security as the articulating mechanism of the Mexican model of hydrocarbon extraction. The aforementioned political postulate was promoted, with special emphasis, through the constitutional reform published on December 20, 2013. The hypothesis that guides the work assumes that energy security has been used in the official discourse to sustain the hegemonic paradigm of production, use, and consumption of fossil energy, that is, to specify what I call an ‘apology of the extraction’.

The investigation documents that the government narrative has focused on the energy transition —promotion of so-called clean energies— however, synchronously, state power has intervened to control, amplify and manage an extensive infrastructure built in a network, made up of wells, oil pipelines, gas pipelines, carboducts, polyducts, refineries, thermoelectric plants, production plants and service stations to supply fuels.

Regarding the theoretical perspective, energy extractivism is discussed as the hegemonic prototype of production and consumption of fossil fuels and, in particular, as a neoliberal energy management device. The question asked is: how has energy security materialized, through the hegemonic model of extraction, on lands of collective social property? The methodological design was built based on three main tasks: first, a specialized literature review; second, a legislative examination concerning the Mexican energy regime; and, third, stays and field trips that were carried out in three seasons, during August and December 2016 and May 2017. The theoretical-methodological
proposal allows analyzing the territorialization of energy policy oriented towards the dominant paradigm. Under this general idea, the case regarding the construction and operation of an industrial gas pipeline in Huasteca Potosina, Mexico, is registered.

The study is structured in five sections. The first discusses the concept of energy security as a standardized international code based on the uninterrupted availability of energy. The second section reviews the constitutional reform approved in December 2013. In this line of analysis, the third part examines the consolidation of a legal-political framework that favors energy extractivism. The fourth section exposes the case of the industrial gas pipeline in Huasteca Potosina, a region that is located in the area of greatest relevance for the Mexican energy sector. In this segment, community environmental litigation is presented as a political strategy that aims to combat state decisions that violate the collective rights of agrarian communities or indigenous people related to the territory, natural goods and the reproduction of local life. The last section corresponds to the conclusions.

2 ENERGY SECURITY IN THE CONTEXT OF THE HEGEMONIC EXTRACTION PARADIGM

The International Energy Agency (IEA) defines energy security as ‘the uninterrupted availability of energy sources at an affordable price’, of course, this organization supports the concept in postulates of economic policy, in particular with short-term investments and the capacity of production systems to react to sudden changes in supply and demand; therefore, its absence ‘is related to the negative economic impacts due to the low availability of energy and volatile or uncompetitive prices’ (International Energy Agency, 2021).

The term was originally associated with the supply of hydrocarbons for the armed forces during the first half of the 20th century, because combat techniques demanded fuel for airplanes, tanks, trucks and ships. After the Second World War it was used to strengthen the supply of petroleum derivatives in order to move people and goods, under the economic model that required accelerated growth (Yergin, 2011). For this reason, the USA market emerged as the political-economic space with the greatest consumption.

A global industry of extractive companies, service companies and marketing companies was consolidated around oil. This dynamic led to an extensive network of wells, pipelines, refineries, chemical industries, terminals, service stations and production
plants to supply cheap energy (Priest, 2012). Oil was considered the most versatile substance discovered until the beginning of the 20th century; due to the variations in its use, it emerged as the main fuel for transportation, a substantial source of heat and electricity, and the basic component of a wide range of consumer goods, which sustained a new way of life (Rodríguez Padilla, 2018).

The decolonization process in nations with extensive reserves affected large-scale exports to industrialized states, which meant the loss of control and direct influence in the regions of extraction and, subsequently, dependence on external supplies. For these reasons, energy security was permanently installed on the international agenda, an issue that reinforced the geopolitical dimension of oil and reconditioned international relations. The negotiation between exporting countries with recent independence and oil companies translated, according to the dominant hypothesis, into evidence of the fragility of the global supply system (Rodríguez Padilla, 2018).

According to some studies, as the 20th century progressed, the American industry gave way in the control and extraction of the substance, so the displacement of the center of production—from the USA to the Middle East—disrupted North American global power (Yergin, 2011; Priest, 2012). The issue of energy security reached a critical point in the 1970s with oil embargoes, ups and downs in the price of crude oil, and nationalization processes in emerging market countries (Yergin, 2008).

Indeed, the dependence on hydrocarbons from a region labeled as highly conflictive—the Middle East—and the formation of the Organization of Petroleum Exporting Countries (OPEC) found a consensual response by the hegemonic central states—the largest consumers—that focused on reducing dependency and guaranteeing supply under the new geopolitical panorama. The strategy was made up of a series of political-economic measures focused on the stimulation of local production, preventive storage, industrial relocation to peripheral countries and the creation of the IEA, in charge of directly confronting the uncomfortable OPEC (Yergin, 2011; Rodríguez Padilla, 2018).

The aforementioned strategy was intensified with the permanent military presence on energy trade routes. A part of the activities was relaxed during the second half of the 1980s, after the collapse of the price of oil and the loss of negotiating strength of OPEC, however, the rest of the actions remained in force within the framework of an inevitable return to dependence on Middle East crude oil. During the 1990s, the situation arose from the Gulf War and, again, when China began large-scale imports of oil under the worried
eyes of its commercial rivals. Then, in the 2000s, the gas crisis between Russia and Ukraine shook the European Union (Rodríguez Padilla, 2018).

Since then, the diversification of the supply of natural gas by sea or land —gas pipelines— is one of the permanent topics on the energy agenda. This fact confirmed the economistic perspective on exploration, symbolized by the so-called ‘shale gas revolution’ in the USA, which translated into a profound change in North American energy policy (Jacobo-Marín, 2020).

Therefore, it is not surprising that a considerable part of the literature regarding energy security has been developed from disciplines such as political science, international relations, energy governance and political economy. A critical reading argues that the central question of this literature focused on who controls the deposits and through what mechanisms. The geopolitical approach privileged the use of physical geography to map the existence of fossil resources and the access routes to them, as well as the analysis of political forces and power balances (Rodríguez Padilla, 2018).

In broad terms, energy security is presented as a standardized international code based on the uninterrupted availability of energy. The truth is that the term developed throughout a historical process that included, among its chapters, the geopolitical distribution of influence between the UK and the USA after the conclusion of the Second World War, the formation of OPEC, the military interventions in the Middle East, and the global financial crises that affected demand (Oswald, 2017).

In this way, the IEA champions a political-economic strategy that promotes the exercise of pressure on exporting countries to guarantee supply and avoid interruptions in the supply of crude oil. On the contrary, the IEA conceptualization does not take a position on oligopolistic practices that coerce markets, such as deliberate intervention in fuel prices and oilfield prospecting (Jacobo-Marín, 2019).

3 ENERGY SECURITY AS AN ARTICULATING MECHANISM OF THE MEXICAN CONSTITUTIONAL REFORM OF 2013

Energy security was used as the articulating mechanism of the constitutional reform published in the Official Gazette of the Federation (OGF) on December 20, 2013; the decree reformed articles 25, 27 and 28 of the Political Constitution of the Estados Unidos Mexicanos (Official Gazette of the Federation, 2013). The legislative initiative was presented by President Enrique Peña Nieto on August 12, 2013; it was approved by
the Senate on December 11 and by the Chamber of Deputies the following day. The initiative and subsequent approval were forged as commitments of the so-called ‘Pact for Mexico’.

The energy reform was so extensive that, to regulate it, nine laws were issued and another twelve were modified and repealed through six decrees published in the OGF. This series of decrees began the validity of the Hydrocarbons Law (Official Gazette of the Federation, 2014), the Law of Petróleos Mexicanos, the Law of the Federal Electricity Commission (Official Gazette of the Federation, 2014a), the Law of the Electrical Industry, the Geothermal Energy Law (Official Gazette of the Federation, 2014b), the Law of the Coordinated Regulatory Bodies in Energy Matters, the Law of the National Agency for Industrial Security and Environmental Protection of the Hydrocarbon Sector (Official Gazette of the Federation, 2014c), the Hydrocarbon Revenue Law and the Law of the Mexican Petroleum Fund for Stabilization and Development (Official Gazette of the Federation, 2014d).

As provided for by the legislative initiative, the aim is to strengthen the State's stewardship in the regulation of hydrocarbons, promote the generation of renewable energy and guarantee the supply of the internal market. According to the Secretariat of Energy (Sener), the 2013 reform brought about institutional, legal and market changes that aim to ‘gradually reduce the country's exposure to technical, operational, financial and environmental risks related to exploration and extraction activities of oil and natural gas’ (Secretariat of Energy, 2017: 9). Public reports accentuated the insufficient production and the associated increase in imports of natural gas, gasoline, diesel and petrochemicals (Anglés, 2017; Secretariat of Energy, 2017).

The reform put an end to the political-economic model that had prevailed since the expropriation of the oil industry proposed by President Lázaro Cárdenas in 1938 and carried out on January 20, 1960. One of the central postulates of the expropriation resulted in a monopoly in the exploration, extraction and use of hydrocarbons by the company Petróleos Mexicanos (Pemex). In fact, the constitutional modification was consolidated two decades after the signing of the North American Free Trade Agreement (NAFTA), whose energy chapter maintained ‘reserves’ by Mexico; this situation reveals the repositioning of the United States in the world energy market (Vargas, 2015). Although the constitutional narrative about the sector as a strategic and priority area is maintained, a critical review points out its weakness compared to the neoliberal economic parameters provided for in the trade agreements signed by Mexico, because they promote a market
that limits State intervention and privileges investment of transnational private capital (Cárdenas, 2014).

Consequently, the use of hydrocarbons and the granting of mining concessions were harmonized. In accordance with the Mining Law of 1992, the exploration, exploitation and benefit of minerals are of public utility and preferential use over any other use of the land (article 6, first paragraph). Through the derived regulations, powers were granted to the Ministry of Economy to verify whether the surface on which a mining concession is requested is subject to energy extraction activities or the transmission of electrical energy. Although the simultaneous carrying out of activities is foreseen when technically possible, the agreement strengthened the order of priority in favor of hydrocarbon allocations.

4 TOWARDS THE APOLOGY OF HYDROCARBON EXTRACTION?

Compared to other energy sources, fossil fuels are cheap and, due to their composition, transportation and storage are relatively safe. Consider that most of the energy used in the world comes from fossil fuels. However, its use generates greenhouse gases and toxic residual substances; extraction leads to their depletion and the processes in which they are used cause pollution of various types and scales: accidental spills, illegal dumping, emission of volatile waste into the atmosphere, among others (Jacobo-Marín, 2019).

In this line of analysis, extractivism has been defined as a process characterized by extracting natural goods ‘in large volumes or under high-intensity procedures, which are oriented towards export as raw materials or with minimal processing (commodities)’ (Gudynas, 2014: 80). Certain mining, oil and monoculture agriculture enterprises are considered extractivist. The most recent extractivisms involve extensive intervention, such as open pit mining, whose presence in Latin America has generated multiple resistances and conflicts (Gudynas, 2014).

In terms of classical economics, such projects are promoted as fundamental components of progress, however, from civil society they are perceived as threats to community life and territories. The distinctive note of extractivism is that ‘there is no production of minerals or grains’ as described in economic balances and government reports (Gudynas, 2018: 63), in this model nothing is produced, but rather involves intensive extraction that responds to consumer demands and capital investment in
transnational markets (Gudynas, 2017). That is, extractivisms ‘are locally anchored, but depend on globalization’ (Gudynas, 2018: 63).

Contemporary extractivism has been described as a socio-territorial device that is based on the paradigm founded on the overexploitation of natural goods — largely scarce and non-renewable — and on ‘the expansion of the exploitation frontier towards territories previously considered unproductive from the point of view of capital’ (Svampa, 2019: 21). In this sense, extractivism ‘is characterized by the orientation to the export of primary goods on a large scale’, including hydrocarbons, metallic minerals and agricultural inputs (Svampa, 2019: 22).

In the Mexican reform project it was argued that the transformation of the energy sector would promote the so-called clean energies, however, the derived devices promote the activities of exploration and extraction of hydrocarbons through permits, allocations and contracts that authorize their refining, transportation, storage, distribution and marketing. In this sense, the commitments assumed by the Mexican State in the Paris Agreement are called into question, since the scheme implemented in 2013 continued to be promoted explicitly. The Paris Agreement entered into force on November 4, 2016. The main objectives of the instrument are to ‘substantially reduce greenhouse gas emissions’ and ‘limit the global rise in temperature’.

With the formulation of the Five-Year Bidding Plan and the opening of international rounds, a ‘new’ extraction scenario was finalized. According to the hypothesis proposed in this work, this scenario is not new, but rather constitutes the formalization of extractivism in the legal order that translates into territorial projections to obtain hydrocarbons. During Round Zero, Sener awarded Pemex 489 allocations, of which 108 are for exploration, 286 for extraction, and 95 correspond to production fields assigned until their bidding (Figure 1). Considering the proven reserves, Pemex was assigned a volume of 20,589 million barrels of oil equivalent (BOE), based on that block of assignments, the state company must maintain a production of 2.5 million barrels per day (MBD) for fifteen years (Secretariat of Energy, 2017).
The extraction assignments are located in the federal entities of Nuevo León, Tamaulipas, Veracruz, Hidalgo and San Luis Potosí; unconventional exploration in Coahuila, Nuevo León, Tamaulipas, San Luis Potosí, Hidalgo, Veracruz and Puebla; and those of conventional exploration in Tamaulipas, Nuevo León, San Luis Potosí, Veracruz and Tabasco. The official information also revealed the conventional exploration and extraction zones in the Gulf of Mexico georeferenced as regular polygons (Figure 2).
In Rounds One and Two, a series of international tenders carried out by the Mexican State to negotiate contracts were planned. During the fourth call of Round Two, the contractual areas tendered are located in three deep-water oil provinces: the Lost Fold Belt, the Mexican Cordilleras and the Salina Basin (Figure 2). In this phase, 19 contracts were awarded to 11 companies (Table 1). Jointly, a progressive fiscal scheme is foreseen where the Mexican State will receive a percentage of profit of 67.2%, but only when a favorable behavior is observed in the price of hydrocarbons, cost efficiencies are presented or volumes higher than expected are discovered. Sener estimated that the total investment of these contracts amounts to 92.8 billion dollars (Secretariat of Energy, 2019).

The final report of the oil rounds reveals that 107 exploration and extraction contracts were awarded: 38 in Round One, 50 in Round Two and 19 in Round Three, including 3 contracts in association (Secretariat of Energy, 2020). These were awarded during 11 international tenders on 181 previously defined contractual areas (Table 1); the results showed 73 bidding companies from 20 countries. The accumulated investment until August 2020 was estimated at 5,954 million dollars and the accumulated income in favor of the Mexican State until June 2020 was estimated at 2,352 million dollars (Secretariat of Energy, 2019).
Table 1 - Hydrocarbon exploration and extraction contracts

<table>
<thead>
<tr>
<th>Round</th>
<th>Tenders</th>
<th>Contractual areas</th>
<th>Assigned contracts</th>
<th>Deposits</th>
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<td>4</td>
<td>14</td>
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<td>3</td>
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<td>Terrestrial, shallow and deep waters</td>
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<td>Two</td>
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<td>29</td>
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<td>Terrestrial, shallow and deep waters</td>
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<td>Three</td>
<td>3</td>
<td>9</td>
<td>35</td>
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<td>Total</td>
<td>11</td>
<td>181</td>
<td>107</td>
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Based on official information, it is evident that the energy model conceives collective social property lands as spaces for extraction. In this way, the investment of transnational private capital and the development of large-scale projects are two concrete manifestations of the constitutional reform of 2013. This legal-political maneuver constitutes a mechanism of territorial dismantling through the narrative based on energy security.

5 THE HUASTECA POTOSINA INDUSTRIAL GAS PIPELINE: THE MATERIALIZATION OF ENERGY SECURITY ON LANDS OF COLLECTIVE SOCIAL PROPERTY

The hegemonic argument on energy security implies the consolidation of energy extractivism, so that the resulting policies focus on the prominence of fossil fuels and, for this reason, a global list of extractive companies, service companies and marketing companies has emerged. As has been documented, this dynamic materialized territorially with the proliferation of deep wells, pumping stations, gas pipelines, oil pipelines, refineries, production plants and local suppliers.

If we consider the profuse demand for fuel and the dominant paradigm that aims to obtain massive hydrocarbons to satisfy it, the Huasteca Potosina is located in the area of greatest relevance for the Mexican energy sector due to its proximity to extraction platforms, storage stations, and energy conduction routes along the Gulf of Mexico. This region is permanently inhabited by the Nahua and Tének indigenous peoples. Permits have been systematically approved to evaluate shale gas and oil deposits, with the
intention of extracting them using hydraulic fracturing (fracking). The regulation of fracking was finalized during 2017, so that state companies and private capital companies can exploit unconventional deposits.

The widespread opposition of agrarian communities, indigenous peoples and urban sectors to the start of fracking activities carried out by Pemex (Pskowski, 2020) and the political assurance of concessions of water rights to extract hydrocarbons was documented in the national and international press (Valadez, 2018). That is, the eventual realization of fracking coexists with the implementation of infrastructure for conventional extraction, the establishment of thermoelectric plants and the laying of polyducts, which operate around a planned network on the coast of the Gulf of Mexico aimed to guarantee energy security (Jacobo-Marín, 2021).

Now, based on the stays and field trips it was possible to write the narrative of events and specify the strategy of legal action, which included the filing of amparo lawsuits. Community environmental litigation constitutes a political strategy to combat state decisions—including those coming from private interests—that violate the collective rights of agrarian communities or indigenous peoples related to the territory, natural goods, and the reproduction of local life. It is, fundamentally, a form of militant advocacy that offers socio-legal tools to affected actors and aims to accompany them in jurisdictional procedures of common (collective) action and representation.

Community litigation is distinguished from traditional or conventional litigation for several reasons, the main one being that legal advisors do not define the political agenda of the mobilized actors. The legal strategy generally includes the creative exploration and simultaneous promotion of various procedural avenues, in order to exhaust the means provided by the legal order in environmental, administrative, criminal, civil and constitutional protection of human rights.

The narrative that follows refers to the process1 of installation and start of operation of a gas pipeline by the company Enercitro Sociedad Anónima de Capital Variable2 (hereinafter: Enercitro) that had the organic endorsement and technical support of Iberdrola Corporativo México. During May 2016, the inhabitants noticed the opening of gaps and ditches to introduce a 6-inch diameter pipe (Photograph 1). Although the communities did not know with certainty the nature of the project, they eventually learned

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1 It is not the purpose of this work to expose the socio-legal strategy in defense of indigenous communities. This objective is developed in depth in Jacobo-Marín (2020a).

2 Variable Stock Corporation.
that it was a gas pipeline (Espinosa, 2017). Given that it constitutes a project designed as an interconnected network, damages were documented in the agricultural centers of Chimalaco, Rancho Nuevo, Santa Fe Texacal, Chicaxtitla, La Ceiba, Tenexio, Jalpilla, San Antonio, Nexcuayo, Terrero Colorado and Chalchitépetl.

Residents of the region informed the team of advisors³ about the presence of Enercitro personnel carrying out measurement, exploration and excavation tasks. During the field visits, during August 2016, it was confirmed that in the Agrarian Reform community the works were suspended by decision of the ejidal assembly, in accordance with the powers recognized by the Agrarian Law. During the tour of the municipality of Axtla de Terrazas, it was observed that in the ejido of Chimalaco the installed gas pipeline is located right next to the houses that some of its members live in, despite the refusal of the ejidatarios which were backed by the assembly.

The gas pipeline was placed on adjacent private properties and parceled lands, since their owners accepted the payment that Enercitro granted them to dismantle a 12-meter-wide gap. The clearing serves a double purpose: to be a right of way and, to house (underground) the industrial gas pipeline (Photograph 2). In a subsequent tour, during

³ The team of advisors was made up of professors and students from the Strategic Human Rights Litigation Clinic of the Autonomous University of San Luis Potosí and researchers from the Water and Society Program of El Colegio de San Luis. See: Campillo (2017), Espinosa (2017) and Jacobo-Marín (2020a).
May 2017, it was confirmed that the work was not continued in the ejido of Chimalaco by definitive agreement of the ejidal assembly.

The residents reported that a prior, free and informed consultation was not carried out and, therefore, Enercitro planned the private negotiation with each ejidatario; this practice was constant in all the communities intervened. Although some plots of the ejido of Chimalaco were subject to a private agreement in order to obtain the right of way, this does not constitute the ideal legal figure to endorse a hydrocarbon pipeline project over territories inhabited by indigenous communities. Private agreements are regulated by civil law, they constitute the agreement of two or more people to create, transfer, modify or extinguish obligations. The agreements that produce or transfer obligations are called contracts, in accordance with the Civil Code of San Luis Potosí.

In the ejido of Rancho Nuevo, adjacent to that of Chimalaco, the 12-meter gap was also dismantled. According to the ejidatarios, in some sections the excavation did not exceed 1.5 meters, while in other points the depth is greater due to the vegetation and the type of soil. The informants who accompanied the team of advisors also reported that the route the gas pipeline follows crosses several streams and springs (Photograph 3).
This practice not only entails danger in terms of precautionary principle\(^4\), it is also contrary to the devices that regulate the Environmental Impact Assessment (EIA). The World Charter for Nature\(^5\) specified the precautionary principle based on three basic statements: 1) avoid activities that may cause irreversible damage to nature, 2) activities that may entail danger will be preceded by a thorough examination and, 3) activities will not be carried out when their possible harmful effects are not fully known\(^6\).

In the ejido of Santa Fe, the inhabitants refused to give up the right of way, but the Enercitro agents told them that ‘it was better to accept the money’ before the excavation was carried out deeper, since ‘what is under the land is not property of the ejido’. These speeches operate as a hostile behavior that intimidates the local population under an explicit idea: ‘the gas pipeline will be installed, even if they do not approve it’ (Jacobo-Marín, 2020a).

\(^4\) Unlike the principle of prevention, the principle of precaution is based on caution in the face of a lack of scientific certainty and requires taking measures that reduce the possibility of suffering environmental damage even if the probability of its occurrence is ignored, while the principle of prevention requires taking measures given that the damage that may occur is known.

\(^5\) The World Charter for Nature was adopted and proclaimed by the United Nations General Assembly on October 28, 1982.

\(^6\) Other international instruments that develop the precautionary principle are the Rio Declaration on Environment and Development (1992) and the Stockholm Convention on Persistent Organic Pollutants (2001).
On the limits of the ejido of Chicaxtitla and Santa Fe, on the banks of the Seco River, the points marked for the opening of the breach were located (Photograph 4). This indicated that the clearing of vegetation cover would be imminent, despite the lack of two specific permits: the change in forest land use and the transformation of forest raw material, regulated in the General Law of Sustainable Forest Development.

In the town of Tenexio-Jalpilla it was not possible to continue the tour due to the fences that surround private properties. The community authorities of Tenexio affirmed that on several occasions the then director of the Institute of Human and Social Development of Indigenous Peoples and Communities of the State of San Luis Potosí (INDEPI), came to express the advantages of the project and the payment methods that Enercitro offered in exchange for granting consent.

This fact reveals the complicity between state agents and extractive companies to the detriment of the collective rights of indigenous communities. In this way, it is shown that some local political figures hold public office and, simultaneously, act as promoters of private interests in projects that modify the territory and expropriate, through informal mechanisms, the possession of communal and ejidal lands that indigenous peoples inhabit (Jacobo-Marín, 2020a).

Photograph 4 - Signs in the forest mass to indicate the clearing route

In the community of Chalchitépetl, located in the municipality of Matlapa, it was recorded that the gas pipeline crosses the Matlapa stream and the federal highway. At that site, the works were stopped by decision of the communal assembly. On the other hand, the neighboring private owners accepted the clearing to make way for the right of way (Photograph 2). The route of the gas pipeline is visible in some sections of the road to Aguacatitla; the gap continues to the community of Coyolo, in the ejido of Nexcuayo. The company's warehouse and workers' camp were installed on the ejido of Terrero Colorado.

The route that the gas pipeline follows could only be recorded based on field trips. This was due to the absence of the Environmental Impact Statement (EIS) in Regional Modality which must explain the project in detail, including the type of gas it carries. The informants indicated that the Enercitro representatives commented that it was gas for domestic use so ‘they should not worry’ (Jacobo-Marín, 2020a). The avoidance of the socio-ecological evaluation is interpreted as a serious violation of the principle of legality and the set of international instruments on environmental matters and protection of the rights of indigenous peoples.

The materialization of a project of these characteristics and dimensions responds to the local political dynamics, which favors and protects the investment of private capital in lands of collective social property. These spaces constitute, in accordance with environmental legislation, Environmentally Sensitive Areas (ESA), in particular the municipalities of Matlapa and Axtla de Terrazas, which are characterized by the mountainous orography —due to their location within the Sierra Madre Oriental—, the profuse coverage jungle-type vegetation and a hydrological network made up of the Huichihuayán, Tamancillo, Axtla, Moctezuma and Tancuilín rivers, as well as numerous streams, springs and other temporary outcrops.

In terms of the formality required by the environmental assessment instruments, the project lacks a legal matrix that supports it, for at least two reasons that are associated with the social audit: first, the omission to prepare, present and explain the EIS to the local population and, second, for systematically avoiding public information sessions, community assemblies and free prior and informed consultation. Enercitro's strategy prospered with ejidatarios and small landowners, the former claiming acceptance of the payment due to their precarious economic conditions; the latter stated that ‘one way or another’ the conduction line would have to cross that surface. In any case, the agreements were formulated around ignorance of the project (Jacobo-Marín, 2020a).
Finally, in the constitutional protection trials, Enercitro and Iberdrola Corporativo México were named as interested parties in the trial. One of the *amparo* claims was filed in favor of the indigenous community of Chalchitépetl, on May 12, 2017. The Fifth District Court, based in Ciudad Valles, granted the definitive suspension on July 19 of that year (Campillo, 2017). Favorable resolutions are atypical in judicial processes in which territorial rights are defended; above all, because the legal order protects energy security under social interest and public order. In general, these are excessively slow procedures full of legal formalities, so that business and state actors are betting on the exhaustion of the affected communities.

6 CONCLUSIONS

Energy security constitutes the articulating element of hydrocarbon exploration, extraction, distribution, transportation and marketing projects, through a network infrastructure modulated by the dominant energy prototype. In this sense, the 2013 constitutional reform is characterized by promoting the paradigm of capitalist extraction and prospecting for deposits. The flexibility of agrarian legislation, completed in 1992, also contributed to the fact that operators in the sector found in collective social property the concrete space for the implementation of extractive projects.

It is concluded that energy security is presented as a standardized international code based on the uninterrupted availability of energy. The term developed throughout a historical process that included, among its chapters, the geopolitical distribution of influence between the UK and the USA after the conclusion of the Second World War, the formation of OPEC, the military interventions in the Middle East and the global economic crises; so that the IEA supports the political-economic strategy financed by the central States.

If we consider the profuse demand for fuel and the hegemonic dynamics that large-scale extraction seeks to satisfy it, the Huasteca Potosina is located in the area of greatest relevance for the energy sector in Mexico. In fact, permits were approved to carry out *fracking* in the region, since it is a strategic territory in terms of conventional economy for the conduction of hydrocarbons through the infrastructure developed on the coast of the Gulf of Mexico.

Finally, the use of community environmental litigation involves the collective construction of legal strategies *from below*, which contribute to the jurisdictional assertion
of territorial rights. However, the prerogatives of indigenous people and communities have not translated into the recognition of their regulatory systems in the formalist judiciary\textsuperscript{7}. This situation has led members of indigenous peoples and agrarian groups to experience exhausting and excessively slow judicial processes. In any case, the 2013 constitutional reform constitutes a mechanism for territorial dismantling through a political-economic strategy based on energy security.

\textsuperscript{7} By formalist judiciary I refer to the set of administrative and jurisdictional institutions that make up the Judicial Branch at the federal levels.
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