

**RIGHTS, RESISTANCE, AND RADICAL  
ALTERNATIVES: THE RED DE  
DEFENSORES COMUNITARIOS AND  
ZAPATISMO IN CHIAPAS**

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Rights save neither men nor a philosophy that is reterritorialized on the democratic State. Human rights will not make us bless capitalism.

Deleuze and Guattari<sup>1</sup>

Positive law is not our law, in our communities we have a different way. But it is very useful for us to understand it, in order to defend ourselves from the government.

Community *Defensor*<sup>2</sup>

Some analysts have suggested that we must pay attention to the “social life” of rights, meaning the ways they are “materialized, appropriated, resisted and transformed” in particular contexts (Wilson 1997:23). In the Mexican context, it is perhaps more appropriate to call this their “political life.” That is, the exercise and enforcement of human rights, as enshrined in national and international laws and mobilized by various social actors, are highly political matters (Speed and Collier 2000). In Mexico, as in most States, laws regarding the rights of citizens are selectively applied or enforced based on a gamut of political exigencies of maintaining power. Many Mexicans are precluded from

exercising their rights and from access to the justice system. It is therefore interesting and somewhat paradoxical that the very groups most disenfranchised and alienated from the legal system—including the indigenous people of Chiapas involved in the Zapatista movement—have increasingly over the last two decades framed their struggles in terms of “rights.” Some theorists, looking at the potential positive aspects of such processes have argued that the appropriation of the concepts and structures of law convert national legal systems and law itself into “site[s] of contestation” (Hernandez 2002) or a “space[s] of resistance” (Merry 1997). Yet, as Merry and others have pointed out, such forms of contestation and resistance also serve to “reinforce the centrality of law as a mode of protest” (Merry 1997), and risk reinscribing the very forms and logics of power and domination they are struggling against (Gledhill 1997).

In this essay, we are particularly interested in considering the possibilities for forms of resistance that, while rights-based and tied to legal practice, have the potential to do more than simply convert the law into a site of resistance, with the inherent dangers of reinforcing oppressive power relations. Taking as a case in point the experience of the Chiapas Community Human Rights Defenders Network we will argue that some appropriations of law and legal discourse represent radical reformulations that challenge rather than reinscribe existing power relations. This organization, because of its particular structure and relationship to the Zapatista autonomous communities it serves, is in fact inherently subversive to the forms of sovereign power and rule that “the law” serves to uphold.

### **Law, the Contract, and the State**

To understand both the complicity and the effectiveness of rights-based claims in our era, it is first necessary to define law, to locate its position in the architecture of power, and to establish its relationship to “rights.” In order to come to these understandings, it is not enough to examine law as a semiotic or

aesthetic system, or even as a cultural artifact. While certainly such analysis could be applied to law, no such analysis would truly map the essence of the law, that is, none would adequately analyze the law as a particular form and structure for the exercise and circulation of power.

Throughout the history of modern western juridical thought, from Hobbes to Hegel, law has meant the exercise of a sovereign power—the enforcement of a command-obedience relationship between ruler and ruled. (This, despite the fact that the site for the exercise of sovereignty has shifted from “The Monarch,” to “The Nation,” and in its more radical forms to “The People”). This is not meant to imply, however, that law is the naked use of force, but rather, as Merry writes, “a form of violence endowed with the legitimacy of formally constituted authority” (Merry 1992, as cited in Wilson 1997). It is an “authority” that throughout the history of jurisprudence has been most effectively justified through the philosophical fiction of the “contract.” This fiction posits that due to the fear of others, individuals in the state of nature give up their unlimited “rights” to a sovereign. This sovereign, through the collection of these rights, holds absolute power within a society and is in turn charged with the task of mediating among competing individual interests with the goal of creating social unity and peace.<sup>3</sup>

Within this “contractarian” philosophy, the “rights” that we exercise as subjects of a sovereign are the absolute limits beyond which the sovereign is not allowed to act upon his subjects. But how is it possible to limit the actions of a sovereign if, as Hobbes posited, any force that is to limit the sovereign must be greater than the sovereign, and if there is a force greater than the sovereign then the sovereign by definition ceases to exist? This paradox has vexed both natural and positivist legal philosophers, the great majority of whom have been unable to escape the philosophical dominance of the contractarian theses within legal thought. The natural law solution to this puzzle has been to appeal for “rights” from a sovereign above and

beyond that of the state (i.e., God), whereas the positivist legal solution has been to ask the sovereign itself to create a system of checks and balances on its own power through the recognition and pronouncement of the “rights” of its subjects and stabilization of the actual processual functions of state bodies (i.e. courts, legislatures, and the executive). Despite the disparities of these viewpoints both natural and positivist legal philosophies accept in whole the theses that all power within a state society necessarily emanates from, and is circulated by, the sovereign.<sup>4</sup>

Thus, the power of the “law” is, in thought and in action, the power to produce and reproduce daily practices and subjectivities within society that continually reinforce the founding myth of sovereign power, that is, the power to create subjects that act as if all power emanates from the sovereign. This mystifying, or “normalizing,” power of the law, and the unparalleled legitimacy it gives the sovereign and the command-obedience relationship it maintains with its citizens, becomes particularly dangerous given our current global juncture.

### **On the Local Terrain: Three Conceptual Trajectories of Human Rights in Chiapas**

#### *The Catholic Church and the Natural Law Tradition*

The concept of human rights has three trajectories in Chiapas: one with a religious orientation disseminated through the Catholic Church, another with a positivist legal orientation propagated by the agencies of the State and non-governmental organizations (NGOs), and a third centered around the discourse of “indigenous rights,” promoted most prominently in Mexico by the National Indigenous Congress and the Zapatista Army of National Liberation (EZLN).

Although there is a good deal of blurring and overlap in the practice of human rights defense, the first two lines of legal thought correspond to two distinct conceptual frameworks

and justifications for the existence of “human rights”: one which emphasizes the “human” and views rights as innate, natural, and prior to any judicial normativity; and a second which emphasizes “rights” and posits that rights, human or otherwise, do not exist previous to their establishment in law.

In Chiapas, the interweaving of strands of natural and positive law is largely a result of the fundamental role the Catholic Church has played in the development of human rights discourse and practice. The Church began its defense of the indigenous peoples of Chiapas as early as the 16<sup>th</sup> Century with Bartolomé de Las Casas’ famous theses on the “humanity” of the indigenous subjects of the Spanish Crown. However, activists and academics working in Chiapas over the last several decades all seem to agree that the modern discourse and practice of human rights did not appear in contemporary Chiapas until the mid-1980s, and that it was first introduced in Chiapas through the Catholic Diocese of San Cristóbal de Las Casas, under the leadership of Bishop Ruiz.<sup>5</sup>

Samuel Ruiz García became the Bishop of the Diocese of San Cristóbal in 1960.<sup>6</sup> After a process of his own “conversion” from his former conservative views, by the early 1970s Bishop Ruiz was training catechists and giving masses with a strong Liberation Theology bent. But because the indigenous people of Chiapas were clearly “the poorest of the poor,” the “option for the poor” soon became the “option for the indigenous” and thus evolved into a *Teología India* (Indian Theology) (Ruiz García 1999:61). Indian Theology is based on a strong valorization of indigenous culture and the understanding that human beings of all cultures are equal before God (Meyer 2000; Ruiz García 1999).

Throughout the centuries the dissemination of the discourse of “human rights” through the Catholic Church has varied little in its affinity with natural law. The discourse that is currently predominant in the Catholic Church in Chiapas was first formulated by Bartolomé de Las Casas in the first half of

the 16<sup>th</sup> Century when he reformulated Neo-Thomism dominant within the Dominican order into a defense of the Indigenous peoples of the Americas that can be summarized with his famous statement: “The nature of men is the same and all are called by Christ in the same way.”<sup>7</sup> All men who accept Christ are equal in the eyes of God. By situating God as the highest authority, rather than the State, it follows that the rights of human beings always already exist, regardless of their establishment in the legal regimes of any particular State. In recent years Bishop Ruiz has reaffirmed this longstanding position on the nature of human rights by citing Pope John Paul II, “the rights of your peoples are prior to any right established in human laws” (Discourse in Latacunga II, as cited in Ruiz García 1999:69).

At the same time, the Catholic Church was responsible for the establishment of the earliest human rights organizations in Chiapas, which were formed in the early 1980s in the context of the arrival of thousands of Guatemalan refugees fleeing their country’s scorched earth campaign. In 1988, the Fray Bartolomé de Las Casas Human Rights Center (CDHFBC) was founded. The first organization specifically dedicated to human rights work, the Fray Bartolomé Center was a project of the Diocese of San Cristóbal and Bishop Ruiz was its President (García 1998).<sup>8</sup> This organization, and the other church-based human rights organizations that followed it,<sup>9</sup> had a clear mandate to pursue human rights cases through the legal norms established in national and international law. Thus, as is the case with most organizations that found their conceptions of “rights” on the authority of God, the Catholic Church in Chiapas has had little choice but to seek the recognition of those rights through the positivist practice of attorneys, courts, and legislatures.

## **Human Rights NGOs: Positive Law and the Global Order**

In the 1990s, human rights organizations flourished in Chiapas. Particularly after the Zapatista uprising began in 1994, the number of NGOs increased dramatically, as national and international organizations also began to have a presence in the region. By the late 1990s, there were ten independent human rights NGOs (García 1998)<sup>10</sup> four national human rights NGOs,<sup>11</sup> and at least nine international human rights organizations<sup>12</sup> with a permanent or periodic presence in Chiapas. The state and federal governments had also established their own human rights agencies in the region.<sup>13</sup>

Several simultaneous and related processes—global, national, and local—contributed to this flourishing of human rights organizations (and NGOs more generally). At the global level, a number of analysts have argued convincingly that the growth of NGO networks are closely tied to the emergence of a new global order (e.g., Keck and Sikkink 1998). Without a doubt, the downfall of the socialist bloc and the subsequent emergence of neo-liberal capitalism as the discourse and practice of the new global order have contributed strongly to this dynamic, by effectively eliminating political discourses that posit alternative forms of social organization and replacing them with discourses more compatible with neo-liberal capitalism itself, notably “rights” discourses (see Brown 1995; Gledhill 1997). The emergence of this neo-liberal global order also signaled a shift in the ways many States related to their populations: eliminating their commitment to “oversee processes of redistribution that would bring about greater social justice and equity through reallocation of resources” (Frankovits 2001), which in turn gave rise to a need for the disenfranchised to pursue new forms of social solidarity to seek redress for inequalities.

We can observe how this process played out at the national level in Mexico. Long characterized by a corporatist State

that managed internal dissent through co-optation (turning to coercion and repression when co-optation failed), the Mexican State found itself increasingly limited in its capacity to finance hegemonic social pacting after the debt crisis of the mid-1980s (Collier 2000). The neo-liberal restructuring begun during the regime of Carlos Salinas de Gortari in the wake of the economic crisis brought Mexico into the emergent global order and ended decades of corporatist rule. This meant, for many, the end of any hope of balancing out social inequalities through direct petitioning of the State (for land reform, etc.). Thus, the relations between the State and civil society have been fundamentally altered, opening up a space for the flourishing of civil society's activism and organization. Many of these organizations grew up around the issues of specific groups, which tended to be focused on, or composed of, a particular unifying identity, and whose claims were strongly rights-based. In other words, as globalization has created the conditions in Mexico in which rights-based discourses seem to have the most social salience, it has simultaneously eroded the ability of the State—through neoliberal economic restructuring that has put an end to redistributive practices and eroded the powers of formal democratic institutions—to respond to these claims, making the creation of intermediary private bodies (i.e., private international foundations and NGOs) increasingly necessary.

However, many of the resulting non-State organizations tend to depoliticize the problems that they seek to solve by side-stepping the difficult issue of implementing a holistic and coherent political project within the neoliberal State, and they instead settle for managing a series of immediate and seemingly unending crises (Guehenno 1995; Hardt and Negri 2000). Thus, as Gilles Deleuze (1994) posited, the end of corporatist rule does not mean the end of State or sovereign-like mediation of social conflict. Rather, the State and its mediating function has now escaped the confines of formal public institutions to permeate society as a whole (see also Hardt 1998).



This interpretation has significant implications for the possibilities and pitfalls of NGOs, because it suggests that these sites for action and social struggle can easily reproduce the logic of neo-liberal sovereign rule in a fashion that effectively outdoes the normative power of the State by involving the entire social body in the circulation and maintenance of the current state of affairs. This point is important to our argument; we will return to it again below.

Whether one interprets the proliferation of NGOs in a relatively positive light (Keck and Sikkink 1998), or in a relatively critical one (Garcia 1998), the fact of their proliferation indicates that they fill a necessary mediating role between States and their populations. However, the marginalized and disenfranchised remain in a vulnerable position, at the mercy of the whims of funding institutions and the internal politics and power moves of the NGOs themselves. That is, indigenous communities in Chiapas may eventually gain access to the judicial system by way of NGOs, but they are then subject to an unequal power imbalance with the NGOs themselves, a power imbalance that is particularly dangerous if we take into consideration that NGOs are playing an active role in the diffusion of the logic of neoliberal sovereign rule throughout society. Thus, for groups pursuing autonomy and self-determination, a more direct confrontation with the logic of the State, and a clearer consideration of, and disentanglement from, the law as a function of the State, is not only desirable but also absolutely necessary.

### **The Emergence of Indigenous Rights and Autonomy in Chiapas**

Parallel to the Catholic Church's natural law defense and the NGOs' positive law defense of indigenous people, there has been an ongoing evolution in the thought and practice of "rights" within the indigenous communities of Chiapas themselves. One important expression of this evolution, though not the only one, was the 1994 uprising of the EZLN, which began

its first public communiqué by highlighting its indigenous composition and the centuries-long series of abuses against the indigenous people of Mexico with statements like, “We are the product of 500 years of struggle.”<sup>14</sup>

Twelve days after the EZLN declared war on the Mexican Government, and under much national and international pressure, then-President Salinas de Gortari (1988-1994) decided to declare a unilateral cease-fire that effectively ended open hostilities in Chiapas and began a series of negotiations with the EZLN that have spanned some eight years and three presidencies. The high-water mark of the negotiations was the signing of the San Andrés Accords on Indigenous Rights and Culture by the EZLN and the government of President Ernesto Zedillo (1994-2000). However, it quickly became apparent that the federal government had little intention of honoring the agreements, as evidenced by its refusal to accept proposed legislation for constitutional amendments on indigenous rights, an important aspect of the Accords.

The Mexican government’s failure to comply with the San Andrés Accords—especially its failure to fulfill the commitment to promote constitutional reform recognizing indigenous rights and autonomy—signaled its unwillingness to address the indigenous population on the terrain of rights. But governmental inaction had the effect of strongly impelling the Zapatista movement toward precisely that terrain, and the Zapatistas increasingly defined their movement as one for indigenous rights and autonomy. This shift took place for several reasons: first, the governmental withdrawal from the San Andrés Accords gave the Zapatistas the moral high ground; they had negotiated in good faith, and the Mexican government had failed to honor its own agreement. Not surprisingly, this increasingly got put forth in their public discourse. Also, the national indigenous movement, which had begun to coalesce out of diverse and previously unrelated organizations and autonomy projects after the Zapatista uprising and particularly after the negotia-

tions at San Andrés, provided a strong national base of support for the EZLN (see Hernández Navarro 1998). But, perhaps most importantly, by closing the door on the possibility of pursuing indigenous self-determination through negotiations and legal reform, the government forced Zapatista base communities to pursue autonomy unilaterally.<sup>15</sup> Although the Zapatistas established 38 “municipalities in rebellion” in 1994, it was from 1997 onward—after the failure of the San Andrés Accords—that these municipalities emerged as a principal space for the organization of resistance and a strategy for indigenous political participation (Gonzalez and Quintanar 1999). Educational initiatives and health projects began, and regional cooperative structures formed. Thus, the San Andrés Accords, and the Mexican government’s failure to implement them, contributed to important shifts in Zapatista discourse and practice. The movement for “national liberation” became a movement for indigenous rights and autonomy.

Four years later, when Vicente Fox was elected president and the COCOPA initiative finally went before the Mexican Congress, the autonomous municipalities were already well established. When the law passed in a form that was so emptied of content that it was considered a step backward in terms of indigenous rights (and was unanimously rejected by indigenous peoples throughout the country), it reaffirmed the Zapatistas’ distrust of the legal terrain as the most effective one for establishing their autonomy. While they certainly fought for constitutional recognition as one aspect of their autonomy project, they were always prepared to move forward without it.

Two years after the passage of the law, a significant step in the autonomy process was taken. In August 2003, the Zapatistas celebrated the evolution of the five regional “Aguascalientes” (points of contact between the EZLN and civil society) into the “Caracoles” (regional administrative seats). An important aspect of this shift was that it formalized the transfer of power from the EZLN to the autonomous commu-

nities themselves—from military to civilian authorities. The administrative bodies seated in the Caracoles, the Juntas de Buen Gobierno (Good Governance Councils), are a form of self-organization and administration of the Zapatista communities, based on their local customs and practices. The Juntas operate under the Zapatista logic of “*mandar obedeciendo*” (rule by obeying) a form of governance they envision as distinct from that of the State, which they have defined for a number of years as “*mal gobierno*” (bad government). While it remains to be seen how effectively the Juntas de Buen Gobierno will be able to put the concept of *mandar obedeciendo* into practice, by virtue of their assertion of their right to try in practice—not in state recognition—their political force is felt.

The autonomous regions do not seek recognition by or representation before the State, but rather are the expression or *exercise* of the right to self-determination. The idea that rights exist in their exercise, rather than in their wresting from the state, is central to the EZLN’s perspective of their struggle. It is reflected in the statement of spokesperson Subcomandante Marcos when he writes, “We the Zapatistas want to *exercise power*, not take it.”<sup>16</sup> The words of Comandanta Ester at the birth of the Zapatista Caracoles and the inauguration of the Juntas de Buen Gobierno in August 2003 in Oventic, Chiapas, conveyed the weight of this argument:

The political parties conspired to deny us our rights, because they passed [the law on indigenous rights and culture]... Now, we have to exercise our rights ourselves... Forming our own autonomous municipalities, that’s what we are doing in practice and we don’t ask anyone’s permission.<sup>17</sup>

Comandanta Ester’s speech asserts that indigenous autonomy exists prior to and irrespective of its establishment in law. She signals the betrayal of the Law on Indigenous Rights and Culture

as the end of the possibility of state recognition as a significant factor in Zapatista autonomy. Indigenous autonomy—self governance—will be exercised irrespective of the state's position.

However, there is more to the current mode of Zapatista autonomy than simply a response to the intransigence of the government. There is a distinct conceptualization of those rights which functionally eliminates the legal regimes of the State as the external referent for the existence of rights. Bearing some resemblance to a natural law conceptualization of rights as prior to and irrespective of the laws of States, the Zapatista interpretation also eliminates the notion of a Supreme Being as the source of those rights. The source of rights in this conceptualization is the actors themselves, who are collectively exercising them. This does not mean that the State is irrelevant—Zapatista autonomy, even when completely disengaged from interaction with the State, is still forged in mute dialogue with the State. State actions can and do affect the Zapatista regions, and Zapatista actions do affect the State. However, by refusing to grant the State the power to designate who are rights-bearers and what rights they may enjoy, the Zapatistas suggest a radically distinct discourse of rights. There is no need to overly romanticize Zapatismo. The positing of alternative logics of governance and a distinct framework of rights is a tall order, and on the ground their application and their results are uneven. The inverted power relations of *mandar obedeciendo* lead to complicated decision making processes, and the inclusiveness implied in “*un mundo donde quepan muchos mundos*” (a world in which many worlds fit) is in many cases more of an ideal concept than an unailing practice in these ethnically and politically diverse regions. Nevertheless, by positing these concepts as part of their autonomy project, Zapatistas do offer an alternative philosophy of social organization and rule.

These retooled conceptualizations make indigenous autonomy in the form elaborated by Zapatistas and their

supporters challenging to the neoliberal state—not because of the much-debated risk of “separatism,” but rather by providing both symbolic and material alternatives to neoliberal rule. First, they assert the right to maintain an alternative structure of power, the right to which exists in its exercise and outside state recognition. Second, they offer an alternative structure of power that is based on alternative logics of rule, not in the sense of their indigenous cosmivision, but rather in collective and consensus decision-making, the concept of *mandar obedeciendo* and the assertion of pluriculturalty or diversity within the collective.<sup>18</sup> But in pursuing autonomy unilaterally, outside state recognition, the Zapatistas can assert their own logic of rule, “good governance” as posited against the “bad government” of the State, and do so without risking the limiting structures and discourses of the State and its legal regimes.

### **Autonomy and the Innovations of an Indigenous Rights Practice in Chiapas**

In international law, it is commonly accepted that “indigenous rights” have developed as a derivative discourse of the more general human rights movement institutionalized by the United Nations and through its “Universal Declaration.” That is, soon after the initiatives within the United Nations to decolonize Africa and Asia were recognized, indigenous peoples around the world began to demand that international legal bodies recognize their right to varying forms of autonomy and self-determination. The concrete results of these demands have been several: 1) the adoption of two International Labor Organization (ILO) Conventions, Nos. 107 and 169, the latter of which implicitly recognizes the aim of promoting indigenous autonomy and self-determination and is considered the most complete “in force” summary of indigenous rights in international law; 2) the establishment of a Permanent Indigenous Working Group within the United Nations, which has drawn up the Draft United Nations Declaration on Indigenous Rights, and; 3) the comple-

tion of a Draft American Declaration of Indigenous Rights, as well as a growing body of pertinent jurisprudence within the Interamerican Commission on Human Rights and Interamerican Court of Human Rights (Anaya 1998).

Just as with natural law claims, with which it shares the demand for human equality, the global indigenous movement has had to concede to the positivist practice of existing legal institutions for the recognition and promotion of its “rights.” But, despite the similarities that “indigenous rights” shares with the natural and positivist legal traditions, it also contains normative elements that do not belong to, and that cannot be assimilated into, either of these traditions. As Paul Patton (2000) argues, “Indigenous Rights” is a bridge concept that attempts to unite the Western legal tradition with the customary normative practices of indigenous peoples that have until recently been unrecognizable as juridical institutions within Western law. Since the colonization of the Americas, courts around the world, with only a few exceptions (notably the Supreme Court of the United States), have refused to recognize that the internal decision-making structures of indigenous communities rise to the level of normative institutions and as such should be respected. This perspective, and its expression in courts and legislatures around the world, is inextricably tied to the view of indigenous people as “primitives” and “barbarians” incapable of reasoned thought and thus “law.” Yet, not only does the recognition of indigenous juridical structures within western law signal the beginning of the end for the use of law as an instrument of openly racist colonization, it also marks a radical difference between indigenous rights claims made in Chiapas and other identity-based claims made against the State. The Zapatista movement, and the indigenous rights movement in Mexico more broadly, demands autonomy and self-determination, expressed not as the capacity to build another State under a new sovereign, but as the capacity to function unimpeded so as to affect the daily lives and future of its members.<sup>19</sup> The San Andrés Accords at-

tempted to reformulate the relationship between the State and indigenous peoples in several important ways: one was the right of indigenous peoples to choose their authorities through their internal selection mechanisms; another was the right of those authorities to exercise their power in order to make the political, legal, and economic decisions that directly affect their communities, or at a minimum to be consulted regarding decisions that will affect them. In other words, the San Andrés Accords demanded the recognition of indigenous peoples' right to a relationship with the State that is based upon the principle of consensus rather than that of command-obedience. Thus, these indigenous rights claims not only demand that the institutions of sovereignty within a nation recognize indigenous peoples for who they are—human beings with the right to equal treatment—they also demand that those same institutions not impede the functioning of an existing and parallel power structure (internal indigenous political and judicial mechanisms) in order to allow the indigenous peoples themselves to decide who they are and who they want to become.<sup>20</sup>

There is a marked difference between this form of identity-based rights movement and other struggles caught in the positivist and natural law legal traditions, and within the logic of neo-liberal capitalist global order. First, in contrast to many ethnic or “minority” based struggles, it does not look to the construction of a new sovereign, or even a limited sovereignty, as its final goal. Second, it is not satisfied with the recognition of its objectives within State laws and practices; it is not placated by the protection that similarities with the dominant society may provide it. That is, its demands have not been based on the natural law impulse to search for safety in similarity, nor the positive legal tradition of “equality before the law,” but rather, this movement has asserted “the right to be different.” Third, these rights-based claims demand nothing less than a reformulation in the exercise of sovereignty to include and protect a relationship between the sovereign and its subjects based on



consensus rather than the command-obedience structure that has otherwise characterized sovereignty in western legal thought from Hobbes and Locke to Kant and Hegel. The discussion of the Red de Defensores Comunitarios below highlights not only the unique nature of such rights-based claims, but also their significance for the conception and practice of other such struggles within the contemporary global order.

### **Situating the RED De Defensores Comunitarios**

The Community Human Rights Defenders' Network (referred to herein as the "Red de Defensores") or "Red" was begun in 1999. Founded by Chiapas human rights attorney Miguel Angel de los Santos, the objectives were to bring together a group of young indigenous people from various conflicted regions of the state to train them in national and international human rights law, as well as in the fundamental practice of legal defense in the Mexican justice system. Because the conflict in their regions is largely tied to the struggle for greater rights and autonomy for indigenous people, a significant portion of the training was dedicated to national and international agreements on indigenous rights.

The *defensores* are all from Zapatista base support areas and were chosen by their authorities through the particular customs of their regions in response to letters of invitation sent to the five Aguascalientes. After some initial drop outs and new recruits, the course took shape with fourteen participants.<sup>21</sup> These representatives are from Tzeltal, Chol, Tojolobal, and Mam speaking zones. In 2001, a second generation of *defensores* was invited to join the Red de Defensores from the Zapatista regions Montaña, Maya, Trabajo, and San Pedro Michoacán.

The *defensores* participate in monthly training seminars. Their training has had four components, two conceptual and two practical. In the conceptual component, they studied international human and indigenous rights laws and treaties (particularly the U.N. Declaration on Human Rights and the ILO

Convention 169) and human rights in the Mexican framework (essentially the “rights and guarantees” contained in the Mexican Constitution). In the practical component, they study and practice legal defense work within the Mexican legal system (including Criminal Law<sup>22</sup> and the everyday practice of law in the jails, courts, and *Ministerio Públicos*<sup>23</sup> of the state), as well as the political practice of human rights defense (e.g., writing press releases, public denouncements, and handling negotiations and other interaction with public officials). In addition, a significant portion of the training is dedicated to technical instruction in the use of video cameras for human rights documentation, and in the use of computers, word processing programs, and printers. The *defensores* work in coordination with a team of several advisors who coordinate training workshops, facilitate the centralization of information, and give input and technical support on issues ranging from legal practice, to raising and managing funds, to long-range planning and organization.<sup>24</sup>

### **The Work of the *Defensores***

#### *“In Our Own Defense”*

Human rights violations are by no means a new phenomenon in Chiapas (HRW 1991). In fact, arbitrary violence by state and federal police, as well as landholders’ private security forces (“white guards”) were one aspect of the injustice that gave rise to the Zapatista uprising. However, since the uprising began, communities located in base support areas have suffered new types of rights violations at unprecedented levels. Militarization and military occupation (an estimated 70,000 Mexican Army troops were stationed in Chiapas at the height of the military presence) have made everyday life difficult for people in many areas. Soldiers impede their travel to agricultural fields; they occupy lands, cut down fences retaining livestock, harass women, and create a general climate of fear and surveillance (Global Exchange, et. al 1999, 2000). Notable cases of military human rights violations are the murder of three men in the community

of Morelia by soldiers in 1994 (now before the Interamerican Commission on Human Rights), and the rape of three Tzeltal women at a military checkpoint in 1995. More insidious, and with a much higher human toll, has been the paramilitarization of the conflict. The emergence of pro-ruling party paramilitary groups after 1995 has resulted in hundreds killed, tens of thousands of internally displaced, and hundreds of political prisoners (CDHFBC 1996; HRW 1997). Furthermore, all of these aspects of the conflict contribute to the disruption of traditional forms of social organization, production, and worship, and thus constitute violations of social, economic and cultural rights, including the right for people to maintain their cultures.

All of the regions covered by the Red have suffered violent conflict in recent years. Because of the micro-regionalization of conflict (in which the conflict takes on local dynamics in different micro-regions), the types of problems faced by the *defensores* and the communities of their regions vary. Some suffer more problems with militarization, while others face paramilitary violence. Still others are occupied by state police forces, and many have suffered the politically motivated imprisonment of community members.

The *defensores'* work thus entails a range of activities which depends on the needs of their region. The principle activities are taking declarations and testimonies from victims and witnesses regarding rights abuses, videotaping and photographing for evidence, presenting complaints before the Ministerio Público, sending denouncements to the press and the human rights community at large, seeking the release or pursuing the defense of people who have been unjustly detained. The most high-profile human rights case they are engaged in is the above-mentioned case of the three Zapatista base supporters killed by the Mexican Army in Morelia in January 1994. The Red is working in collaboration with the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, which has consultative status before the Interamerican Commission on Human Rights,

to seek redress for the widows of the victims. Also, through the Project 169, they are preparing a complaint regarding violations by the Mexican government of the Convention in the 2001 passage of the federal legislation on Indigenous Rights and Culture (Hernández, 2002).

Thus, the work of the *defensores* is varied, involves interactions with a variety of actors across social fields, and reflects a significant level of preparation. Prior to coming to the Red, some *defensores* had little or no experience with the concept of human rights. In the words of “Ricardo” from Nicolás Ruiz, “Before, no one talked about ‘human rights.’ It had no meaning for us.” “Miguel,” from the Northern Zone, notes the transition they have made as part of the Red: “We indigenous people do not know what our rights are. They say we have rights, but we don’t know what those rights are, for example [in relation to] the taxes imposed on us by the government through its institutions. Indigenous *priistas*<sup>25</sup> don’t know their rights. The government helps them, in order to get their votes, but they still don’t know what their rights are. We as human rights *defensores* are learning what our rights are, and we are reclaiming them.”<sup>26</sup>

But the Red de Defensores is by no means just another organization designed to tell indigenous people what their rights are. There are several aspects of the Red de Defensores that distinguish its work from that of other organizations functioning in the educational or legal realm around rights-based claims. First, in its conceptualization, the Red parted significantly from the numerous existing projects for teaching indigenous people about their human rights. Often, these have focused on the training of human rights *promotores* (promoters) to recognize and document human rights violations, then proceed to the nearest human rights organization (usually the one that provided them the training). From there, the NGO takes the information and makes decisions about the appropriate course of action. Once the information has been taken, the *promotores* are often sent on their way, while the organization undertakes the work of pre-

paring the denouncements; contacting the police, government human rights agencies, the press, and/or the international community; preparing the documentation; and when necessary providing follow-up on the case. In contrast, the Red de Defensores was conceived and designed to prepare the *defensores* (loosely “defenders;” however, in Spanish, defense attorneys and public defenders are called “defensores,” thus it carries the connotation of legal defense of human rights, not just their “promotion”) to make the decisions and proceed with the actions on their own, thereby eliminating dependence on attorneys and NGOs that have their own agendas, potentially quite distinct from those of the communities. A basic purpose of the Red, then, is to eliminate the NGO middlemen and allow the communities to “assume their own defense” (which is, in fact, the slogan of the organization).

Some of the *defensores* had previous experience or training as *promotores*. For example, Manolo, from Altamirano, had been a human rights *promotor* and regional coordinator for three years before coming to the Red. Because of this previous experience he was chosen by his community authorities to participate in the training and later in the Red when it became a formal organization: “When the invitation from Lic. Miguel Angel came, the authorities of my community told me, ‘You should go because you already know something about law and you will quickly learn how to do this work.’”

Rafael had also had several years of training as a *promotor* through the local Catholic parish in Tila, which ended when the 1994 uprising began. He was clear about the difference between the training he received as a *promotor* and what he has received with the Red: “They taught us what human rights are... and if we saw violations, they told us, we should go to the Fray Bartolomé [Human Rights Center]... [With the Red] it is more practical—we are learning how to handle the MP [*Ministerio Público*], write documents, defend rights with the Articles [of the Mexican Constitution], the penal codes, the ILO 169...”

Like Rafael, Manolo distinguished his training as a *promotor* and as a *defensor*, and pointed to some of the reasons why training is important in his region:

In our communities, we don't have a lot of economic resources and we don't have any way to go quickly to San Cristóbal. Even if we [do], by the time we arrive in San Cristóbal and go to an organization to explain, it is too late to make the denouncement—those who committed the violations are long gone. The journalists and human rights observers also arrive to the community too late to gather information and make the denouncement. *We are in* our communities. That's why we are taking this course to learn how take testimony and elaborate a denouncement. This is very important, because one never knows when [human rights violations] will happen. When the Federal Army comes or Federal Police or state police are entering the communities, we are ready.

The ability to act directly from the community is important to the victims of right violations and facilitates human rights work. For this reason, the *defensores* are based in their regions, rather than in San Cristóbal, or another town. Pablo, also from the Northern Zone, notes the value of coming from a shared language, culture and experience: "An attorney from the city doesn't speak our language. *We defensores* understand more clearly what [victims and witnesses] are trying to say and express. This is much better because we think the same, talk the same, and we have suffered the same repressions. They trust us."

There are thus some clear practical reasons why *defensores* based in the community may work more effectively without intermediary NGOs. But beyond eliminating the "middle-man," their effectiveness can also be understood as a result of strengthening autonomous practice in the nascent Zapatista auto-

mous municipalities. Indigenous communities in Zapatista autonomous regions (as elsewhere, no doubt) have often substituted NGO support for the support previously received from the government in its corporatist moment (Van der Haar forthcoming). While NGOs have no doubt provided valuable assistance and reinforcement to communities pursuing autonomy, we have already pointed to the problematic nature of the community-NGO relationship. Shifting reliance on governmental assistance to reliance on NGOs can still prevent communities from acting autonomously. This brings us to a second important aspect of the Red: its base in the communities of Zapatista Autonomous Municipalities.

### **Community at the Center**

*The defensores seated around the meeting table in the San Cristóbal office smiled broadly when the topic of the recent workshop they had attended in Huehuetenango, Guatemala was raised. Ricardo spoke excitedly: "It went very well," he said. "Everyone [there] was very impressed with the Red. There was an exercise in which they asked us to draw a picture of the structure of our organization, and when we showed ours with the three circled and the community in the center, everyone was silent for a minute, surprised, then they all started asking, 'Can you explain it again? How does it work?' They were very impressed."*

After the initial two years of training, the Red de Defensores became a formal organization, made up of the participants of the training workshops. Its unique structure, which Ricardo refers to above, resembles conceptualizations of power relations in the communities of the *defensores* and is distinct from the structures often seen in NGOs. The latter have traditionally been conceived as pyramids with the officials at the top (coordinator, director, president, executive secretary, etc.), the attorneys, project directors, public relations and press coordinators, and fund-raisers in the middle, and *promotores* from indigenous communities at the base. The Red, by contrast, is conceptualized in concentric circles, with the communities at the center,

the *defensores* in the second ring, and an advisory council in the outer ring. Perhaps the obvious difference is in not having “outsiders” at the top, and the elimination of the top-down mode of operation. This structure emphasizes the fact that the indigenous communities are the heart of the project.

The work of the Red begins with, is directed by, and is answerable to, the communities themselves, and the authorities of the Zapatista autonomous regions to which they pertain. This fundamental principle underlies the original election of the *defensores* by the authority structures of the communities themselves, the *defensores*’ work, which is based in the community, and the organizational structure that keeps the community as the center.

*“To Organize Ourselves in the Way That We Choose”*

*It was a sunny afternoon in June of 2000, when Abelardo Mendez Arcos made some casual comments that would later contribute to a shift in our thinking on the work of legal defense from the community in Chiapas. “Its simple,” he said, “I began doing legal work to help the compañeros [Zapatistas]. It is all part of the struggle, the struggle for autonomy.” Mendez Arcos, a Chol from the northern zone of the state, was a Zapatista political prisoner from 1996-1997 and upon his release became the external representative of the political prisoners group La Voz de Cerro Hueco. He is in a sense the proto-defensor, having worked with and learned from attorney De los Santos on the cases of dozens of prisoners over the last five years. Given to lengthy political monologues, he repeated the simple premise several times in different ways before flashing a suddenly self-conscious smile and concluding: “That’s what the Red is for: to defend our rights, our autonomy....”<sup>27</sup>*

At the time, Abelardo’s comments seemed like straightforward political rhetoric about “the struggle.” But in the course of dialogue with the *defensores* and between the authors, we began to interpret this conceptual linkage of the Red’s work in legal defense and the broader project of Zapatista autonomy of the communities that constitute its base of support. That is,



there is more to “defense from the community” than simply eliminating the middle-man or even creating local empowerment by appropriating the legal terrain of the State. Carrying out legal defense from the community is important, as we see it (and more importantly, as the *defensores* see it), primarily because it allows community members to “defend their autonomy,” as Mendez Arcos put it, and because it is in itself an extension of autonomous practices.

As the opening quote suggests, the *defensores* recognize positive law, and the Mexican legal system specifically, as alien to their forms of organization and conflict resolution, but nevertheless as an important tool to use precisely in defending their communities’ ability to do things “their way.” They understand the political nature of “rights” as a tool of power wielded against them by the government, and which they can use to fight back:

We, as human rights *defensores*... are getting to know what our rights are and we are demanding them. But the government is playing a political game. For example, for the government, ‘civil resistance’ is a violation of the law, but they do not take into account all the laws that have already been established, the international laws which they themselves signed, [because] they don’t want to recognize that we have the right to organize ourselves in the way that we choose... We know how to defend ourselves with the law, because the government is not going to do it for us—it is not in their interest.<sup>28</sup>

In statements such as this one, the unique and politically sophisticated view of law held by the *defensores* comes into view.

In our multi-layered interactions with the *defensores*—as activists, as advisors to the Red (see note 24), and as researchers—it has become clear to us that they do not aim to protect or expand their own ability to present cases in courts or with state officials, even though this is the daily work in which they are

engaged. That is, their end goal is not the search for a just, or even an adequate, State mediation of local problems. Rather, they tend to view their work as the subproject of a much larger undertaking, which the above quoted *defensor* refers to as “civil resistance.” This “resistance” is practiced through using the legal system to protect communities from general violations of law, including assassination, torture, disappearance, arbitrary detention, and military occupation. But, the rights violated by these sorts of actions are not viewed as *a priori* rights, rather they are viewed as derivative of a more central demand and “right”: the right “to organize ourselves in the ways that we choose.” Thus, the *defensores* not only recognize the political nature of law and the political motivations for the abuses directed against their communities, they also identify their source of strength in a larger social architecture of power and its ultimate political difference with the “law,” a difference which lies in their self-organization.

The autonomy and self-determination that the indigenous rights movement seeks will not be provided by organizations such as the Red de Defensores. However, the practices of legitimizing the internal decision-making structures of indigenous communities, and of disseminating at a grass-roots level the knowledge and tools necessary for the communities to deal with adequately intrusive State structures, do tendentially strengthen those communities prior to and regardless of the recognition provided by NGOs or the State and its laws. This, in turn, allows the participating indigenous communities of Chiapas to accumulate the space necessary to further expand their internal autonomy projects, (such as building schools, hospitals, and water systems as well as forming a generation of health promoters, teachers, and community trained engineers) and thus improves their position in the national and global structure of power, making violations of human rights less likely and State mediation of local problems less and less necessary.

## Conclusion

Earlier, we noted two characteristics of globalization that highlight the dangers of “law.” First, the onset of neo-liberal restructuring has emptied the state of its redistributive capacity making impossible adequate mediation among the competing forces within its territory. Second, the rise of global sources of power (i.e. multinational corporations and global financial markets) to a dominant position within the current world system forces many states to accept subordinate roles that are often limited to furthering the empowerment of the global actors just mentioned. Thus, when combined with these characteristics of neoliberal rule, the law and its founding myth of sovereign power can be the trap through which oppositional groups are assimilated into a system where legal process becomes an empty signifier for the resolution of immediate conflicts, while leaving the architecture of power that created those conflicts unquestioned. Similarly, the law’s illusion that organized power can only be exercised through the sovereign is combined with the desperation created by the social decay that accompanies the downsizing of the corporatist state resulting in marginalized groups making claims to a sclerotic neoliberal state whose capacity to resolve social conflict is increasingly limited to its police function. Although immediate conflict and violence may be temporarily resolved, this “resolution” comes at an increasing cost to the most basic individual liberties.<sup>29</sup>

Thus, with the tendential abandonment by the state of its mediating role between competing subjects, it would seem that a critique of “law” and sovereign power would be the order of the day for disenfranchised groups in Mexico and elsewhere. Ironically, it is exactly at this juncture, that most disenfranchised identity groups and the NGO’s that accompany them have adopted the discourse of “rights” and the practice of law to further their struggles. It is as if at the moment that the state is capable of doing the least to positively transform society, its

capacity for self-legitimation through the dissemination of its legal discourse and subsequent creation of “normalized” subjects is at its apex. Yet, as we hope our discussion thus far has made clear, not all rights-based claims must fall prey to the power and mystification of the law and thus not all rights-based movements are simply reproducing the structure of power that maintains neoliberal global rule.

Without a doubt, most rights-based movements and NGOs, in Mexico and around the world, are caught within the power of law. That is, they are trapped waiting for the sovereign to recognize their “rights” while leaving the power and myth of the sovereign unquestioned. Thus, these movements waste valuable energy and resources on actions that further legitimate institutions and empty forms that function to guarantee their ultimate subordination. In mobilizing the discourse of law, they reinscribe the very relations of power they are resisting. In this article, we have focused on the Red de Defensores because we believe that it represents a form of political resistance through the use of identity-based rights claims and a direct exercise of unmediated power that has implications for these questions. We offer the experience of the Red de Defensores as one example of potential alternatives that break with the normalizing characteristics of legal discourse and practice and offer us a glimpse of possible alternatives.

The Red de Defensores’ appropriation of the concept and structures of law as a “site of contestation” or a “space of resistance” does not necessarily “reinforce the centrality of law as a mode of protest” (Merry 1997). The nature and power of the Red goes beyond the strategic use of rights discourses and the Mexican legal system, to the larger political project that this tool is wielded to defend. Its power is that of the Zapatista communities its defenders come from and respond to, and whose movement asserts the right to autonomy and self-determination—expressed as the capacity to control and affect their

daily lives—that inevitably puts sovereignty (state or global) and its power of absolute command in question.

This challenge takes place on the philosophical and the material terrain. The direct exercise of rights by the *defensores* is the exercise of power, free of intermediaries who in fact serve to limit their power and the power of the communities they represent. More importantly, in the unilateral exercise of their right to self-determination, they disengage from both natural and positive law and redefine “rights” as existing in their exercise, not as designations from God/the Church or the state/sovereign. Theorists from Spinoza to Foucault (1980, 1989) have considered the potential of “rights” as the product of factors purely immanent to society or as the product of particular social relations.<sup>30</sup> Writing in the 1600s, Benedict de Spinoza argued: “Nature’s right and its order...forbids only those things that no one desires and no one can do.” That is, for Spinoza, a body’s right was coextensive with what it could do.<sup>31</sup> From this perspective, rights exist in their exercise, not in law or in nature. At a philosophical level, this conceptualization is radically distinct from, and thus presents a challenge to, the legal discourses that underpin the power relations in the current global order.

On the material terrain, the challenge comes through the assertion of parallel power structures. That is, indigenous communities function on the knowledge that “law” and its sovereignty are a myth, and their communiqués and anti-neoliberal rhetoric signal that they are well aware of the sclerotic nature of the current state. Their actions and the shape their political project has taken expose the myth of sovereign power and escape the dangers of the normalizing force of the state by directing their resistance toward a project of self-organization: enlivening a parallel power structure. This parallel power might engage with the state and even ask it to recognize a series of “rights,” as was the case with the San Andrés Accords. But, this engagement with state structures thrives on the knowledge that such rights and their protection will arise only as a result of a

struggle of social forces in which they must engage, and not because of the will or “decision” of the sovereign. The idea that rights struggles form part of the play of social forces while counteracting the notion of a sovereign power is central to the EZLN’s perspective of their struggle, and is expressed by its spokesperson Subcomandante Marcos when he writes, “We the Zapatistas want to *exercise power*, not take it.” The creation of the Juntas de Buen Gobierno and the alternative philosophies of rule (such as *mandar obedeciendo*) which they put into practice are part of the exercise of rights that present radical alternatives to that of the neoliberal state.

The Red de Defensores allows this powerful political understanding of the indigenous movement in Chiapas to be expressed fully because its purpose is to eliminate the need for intermediaries between the indigenous communities and the state. Besides participating in the strengthening of the communities’ internal organization, the Red de Defensores allows indigenous people themselves to engage the state in order to halt repression, without having to give up their ultimate political goals. In this sense the Red de Defensores signals the re-emergence of a truly politicized legal defense. Without this defense the indigenous communities of Chiapas would be left vulnerable to intermediaries who conceptualize “rights” in a different manner and inadvertently contribute to putting indigenous communities at the mercy of law and its myth of sovereign power. Thus, the Red de Defensores, and the larger movement for autonomy of which it is a part, are redeploying globalizing discourses in ways that ultimately challenge the material structure of the global order, and the discourses of law that sustain it.

## Endnotes

<sup>1</sup> Quote from *What is Philosophy?* (199: 107).

<sup>2</sup> The community *defensores* are members of the Red de Defensores Comunitarios por los Derechos Humanos (Community Human Rights Defenders Network), the organization analyzed in this article. We have given pseudonyms to the *defensores* we quote (with the exception of some public figures) out of concern for their personal security. Our use of pseudonyms is a reminder that the discourses we discuss are grounded in very real political dynamics for the “local” people the names represent, and that accountability is an issue not just for those involved in these dynamics, but for those of us who enter into critically engaged studies of them.

<sup>3</sup> For the paradigmatic expression of the function of the sovereign in contractarian philosophy see Hobbes (1996: 114) and *generally* Bobbio (1995). For the latest popular variant of this tradition see John Rawls notions of “the original position” and “the veil of ignorance” in *A Theory of Justice* (Rawls 1971).

<sup>4</sup> See *generally* Michel Foucault, “Two Lectures,” (1980).

<sup>5</sup> Garcia 1998; Collier 2000; interviews by Shannon Speed with Mercedes Olivera (July 2000), Marta Figueroa (May 1999 and June 2000), Miguel Angel de los Santos (June 1998), and Marina Patricia Jimenez (June 2000).

<sup>6</sup> The Diocese in 1960 covered the entire state of Chiapas. In 1964, it was divided into three (San Cristóbal de Las Casas, Tapachula, and Tuxtla Gutierrez) at the urging of Ruiz, who wanted to be able to devote more of the diocese’s work to the indigenous populations of the state, virtually all of which were situated within the area of the Diocese of San Cristóbal (Womack 1998). This area, which covers 48% of the state, was then subdivided by the diocese into six ethno-geographic zones: the Zona Chol, Zona Sur, Zona Sureste, Zona Centro, Zona Tzotzil, and Zona Tzeltal (Leyva 1995).

<sup>7</sup> For discussion, see Fray Bartolomé De Las Casas (1974). For a discussion of the Neo-Thomism of the “Salamanca School” to which De Las Casas belonged see Anthony Pagden (1995).

<sup>8</sup> Samuel Ruiz is still the President. He retired as Bishop in 1999.

<sup>9</sup> Notably the Centro de Derechos Indígenas, A.C. (CEDIAC) in Bachajón and the Centro de Derechos Humanos Fray Pedro Lorenzo de la Nada in Ocosingo.

<sup>10</sup> Collier (2000) cites at least ten more, though we were not able to verify their existence.

<sup>11</sup> These included the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), the Academia Mexicana de Derechos

Humanos, the Centro de Derechos Humanos Miguel Agustín Pro, and the Red Todos los Derechos para Todos.

<sup>12</sup> International organizations with offices in Chiapas were SIPAZ and Global Exchange. Others had a periodic presence through commissions or delegations; these included Human Rights Watch, Amnesty International, the Minnesota Advocates for Human Rights, the Humanitarian Law Project, the Comisión Interamericana de Derechos Humanos (CIDH), the Federación Internacional de los Derechos del Hombre (FIDH), and the Instituto Interamericano de Derechos Humanos (IIDH) (drawn in part from Collier 2000).

<sup>13</sup> The state government formed the Comisión Estatal de Derechos Humanos (CEDH) in 1990, and the Federal government's human rights agency, the Comisión Nacional de Derechos Humanos (CNDH), was formed in 1990 and opened offices in Chiapas in 1994.

<sup>14</sup> Declaration of War of the Zapatista National Liberation Army, *La Jornada*, January 6, 1994.

<sup>15</sup> See *Fuerte es su corazón: los municipios rebeldes zapatistas* (1998).

<sup>16</sup> Subcomandante Marcos, "Comuniqué to the Soldiers and Comanders of the EPR," August 29, 1996.

<sup>17</sup> Sound recording available on-line at fzltnet.org.

<sup>18</sup> We recognize that this inclusiveness is in many cases more of an ideal concept than an unflinching practice, and that tolerance of diversity at the local level is uneven.

<sup>19</sup> The consideration of nationhood varies from indigenous group to indigenous group but, for the purposes of this paper, we have attempted to concentrate on the express goals and principles of the indigenous movement in Southern Mexico and, more specifically in Chiapas.

<sup>20</sup> See, for example, Principle Two of the Declaration of Principles on the Rights of Indigenous Peoples and Article 7 of the International Labor Organization's Convention #169 Concerning Indigenous and Tribal Peoples in Independent Countries.

<sup>21</sup> Two from Nicolás Ruiz, two from San Miguel (Palenque), two from Cuauhtemoc Chancalá (Palenque), four from the Northern Zone municipality of Tila (Misopá Chinal, Emiliano Zapata, and Petalcingo), two from Morelia (Altamirano), one from San Jeronimo Tulijá (Chilón), and one Guatemalan refugee representing the communities of Frontera Comalapa.

<sup>22</sup> Because the majority of political prisoners in Chiapas are accused of common crimes rather than political crimes, knowledge of criminal law is fundamental to their defense.

<sup>23</sup> The Ministerio Público is the institution that receives complaints, assigns detectives to investigate crimes, and presents evidence on behalf of the state against a suspect at a preliminary hearing and during trial.



<sup>24</sup> Both of the authors have worked on the advisory team: Shannon Speed since its inception; Alvaro Reyes since 2000. We have also been involved with the Red de Defensores in other personal and professional capacities. Speed is married to Red founder De los Santos, and the organization was one of the principal “subjects” of her doctoral research (Speed 2001). Reyes coordinates Project 169, an independent project of the Red involving work specifically around the ILO Convention 169. These diverse roles and forms of interaction with the Red and its *defensores* did more than just enable our access to the *defensores* and ensure their trust. It also allowed us to listen to them and learn from them in ways that fundamentally shaped our ideas about the potential of the Red and “law as resistance.”

<sup>25</sup> *Pristas* are followers of the PRI party, which ruled Mexico and the state of Chiapas for more than 70 years, until 2000.

<sup>26</sup> This and all quotes in this subsection are from unstructured interviews with defensores by one or both of the authors in San Cristóbal de las Casas between late 1999 and early 2001. Notes in possession of the authors.

<sup>27</sup> In this case we have used Mendez’ real name. Because he is a public figure, his security is not likely to be (further) jeopardized by the publication of his name here. His comments were made to Shannon Speed in June, 2000. Recording and notes in possession of Shannon Speed.

<sup>28</sup> Interview with “Manolo,” February 2000, San Cristóbal de las Casas. Notes in possession of the Red de Defensores.

<sup>29</sup> See Agamben (1998:126-135), Hardt and Negri (2000: 311-314), and Guehenno (1995:96).

<sup>30</sup> For analysis of Spinoza’s conceptualization of rights see Deleuze (1993), Montag (2000), and Negri (1990).

<sup>31</sup> For extended discussion of the unique and radical nature of Spinoza’s discourse on rights see, Negri (1990), Deleuze (1993), and Montag (2000).

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