Ethnic peoples and communities caught between the legislative and executive branches

Interview with Norman Bañol Álvarez

*Norman Bañol Álvarez is a congressman for the special Indigenous constituency for the 2022-2026 term in the House of Representatives (Lower House of Colombia). Hailing from the ancestral territory of San Lorenzo, he was Senior Advisor of the Regional Indigenous Council of Caldas-CRIDEC, as well as Indigenous Governor of his territory. He is a nurse by profession, a specialist in Social Security Management, and has worked in various health agencies. He has been spokesman of the southwestern Minga Indigenous movement and founder of the MAIS party, a political group that is part of the Historical Pact headed by current President Gustavo Petro.*

By Diana Alexandra Mendoza – September 1st 2022

**Debates Indígenas: What do you think is one of the most critical issues to be addressed by Gustavo Petro’s government in terms of the right to Indigenous participation?**

*Norman Bañol Álvarez: One of the priority issues in terms of real participation, and developing international instruments such as ILO Convention 169 and the United Nations Declaration on Indigenous Peoples, is the right to Prior Consultation and Free, Prior and Informed Consent. In Colombia, Prior Consultation has been applied, with no other option than "yes": because if a community says "no", for example, to an oil well, the National Government applies a Proportionality Test and takes the decision itself instead. Unfortunately, the State still considers us minors. Prior Consultation has generated deep fractures in several regions, especially when it comes to the exploitation of natural resources.*
We need the guarantee of Consent because, unlike Consultation, it gives us the actual right to say "no" – that means the possibility of staying in and maintaining our territories.

**DI:** The Indigenous movement was an active part of the social mobilization that led to the triumph of Petro and Francia Márquez. How do you see the Indigenous organizations in the new social and political context posed by the new government?

**NBA:** The President began his government by appointing Indigenous leaders such as Leonor Zalabata, as head of the Embassy to the United Nations, Patricia Tobón, as new National Director of the Victims Unit and Giovani Yule as National Director of the Land Restitution Unit. These appointments were made by the direct and independent decision of Gustavo Petro and, therefore, generated some internal controversies. However, I consider that it was the right way to do it, because in the Indigenous movement some of us want to be at the spotlight and, at the slightest inconvenience, splitting occurs. The call to our authorities is for unity, to correct those divisions, because if we do not do so during these four years we will not have the real possibility of building what we have promised ourselves. During the campaign, the President said: "I want the Indigenous movement to lead the integral peace, to help us build a stable and lasting peace". We have to live up to this call.

**DI:** As an elected congressman, what are the issues, in legislative matters, that should be promoted by the Indigenous representatives in alliance with the progressive voices that (it seems) will be the majority in the Congress of the Republic?

**NBA:** The first effort will be focused on promoting the Declaration of Indigenous Peoples. We need Colombia to promote this Declaration to protect the rights of the original peoples, of all ancestral peoples, of Indigenous Peoples and of all ethnic peoples.

In legislative matters, it is also important to fully develop legal pluralism in order to have the material and real guarantees to exercise the Special Indigenous Jurisdiction. Today, we have a body in charge of the coordination between the national jurisdiction and the Indigenous jurisdictions: The Interjurisdictional Coordinating Commission (COCOIN). However, we need to move towards a coordinated law with guarantees. There are already some proposals, but we need to bring them down to the grassroots for discussion.
We also intend to participate in the bills that have to do with the national budget because we need to guarantee the material conditions to be able to execute our plans.

Likewise, we are interested in all the bills related to their own economies. Today, the bureaucratic procedures hinder our Indigenous entrepreneurs in developing their economies in the countryside. These issues of national scope will count on our active participation in the legislative work, bearing in mind, however, that one thing is the legislative agenda, and another the administrative measures of the President of the Republic. In this sense, we will have to work to achieve a Decree that can guarantee individual and collective protection measures for threatened leaders. This, in the framework of a Declaration of Humanitarian Emergency for Indigenous Peoples due to the armed conflict, but also due to the cost-of-living crisis.

Our comrades in the Orinoquia are today living in a famine. Our comrades in Nariño, Chocó and Cauca are in a situation of physical extermination due to massacres and violence. We think that a protection provision can be issued through administrative channels to ensure coordination between national, regional and local institutions so that they turn their eyes to the Indigenous Peoples who are currently suffering these threats. In summary, the legislative agenda is being discussed in Congress, but the administrative provisions will be discussed with the President, Gustavo Petro.

DI: Since the Constitution of 1991, the environmental authority over collective territories has generated a constant dispute between national governments and ethnic peoples and communities. There is a constant dispute between the environmental institutions and the Indigenous authorities who try to assert their rights as environmental authorities and make decisions about the natural assets of their collective territories. How do you see this situation with the new government?

NBA: We, the Indigenous Peoples, have thought about a Decree for the Government to grant ethnic authorities legal recognition as environmental authorities. In other words, it should not be institutions such as the Regional Autonomous Corporations (CAR) or the National Environmental Licensing Authority (ANLA) that issue environmental licenses, but the ethnic
authorities and their communities. We understand the dimension of the licenses and we know that, without them, not even exploration activities can be carried out.

It is a fact that we Indigenous Peoples have 33 million hectares, that is, 30 per cent of the national territory. That is why the right wing calls us latifundistas. However, of this land, only a little more than one million hectares are suitable for livestock and agriculture. This means that the plains, forests and rivers that remain preserved can be attributed to the fact that we Indigenous Peoples continue to be the guardians and custodians of the great reserves of biodiversity. This is the case not only in Colombia, but all over the planet. For this reason, we say that the right to Prior Consultation and Consent cannot be waived and must be carried out at the grassroots level. As an Indigenous movement we cannot allow a few representatives to decide for everyone; even more so, knowing that this temptation has also affected Indigenous organizations, causing serious internal problems.

DI: The issue of mobilization and the Indigenous Minga has been an issue that the Indigenous movement has raised in the face of a new government that, undoubtedly, is perceived as a friendly government. How do you think this crossroads of popular mobilization, which had been growing in strength and now feels that its demands are a real part of the public agenda, should be resolved?

NBA: For us it is clear that the reforms of the new government will have many enemies. Therefore, the reforms will be defended in the streets, on the roads, on the sidewalks, and in the cities because the wealthy classes will not want to give up their privileges and will do everything possible to restrain us. This already happened during the campaign, when several businessmen tried to scare people saying that if they voted for Petro, Colombia was going to become Venezuela. We foresee very strong pressure from these sectors, but the Indigenous movement has to be prepared; it can no longer come up with “shopping lists” to the consultations with the government. Instead, it must come up with clear and viable proposals, it must be aware of the political dynamics of the country. Furthermore, the movement must have qualified participation in the formulation of the Development Plan Law, as this law sets the priorities for the execution, implementation and distribution of public resources. As for
mobilization, we must be ready to do what we know how to do: mobilize to defend our rights and to support the reforms of the new government.

(Unedited interview at request of the author)

Diana Alexandra Mendoza is an anthropologist with a Master’s in Human Rights, Democracy and the Rule of Law, and a specialist in Cultural Management. She has extensive experience in individual and collective rights, environment and culture.