Reframing Citizenship:

Indigenous Rights, Local Power and the Peace Process in Guatemala

Although the civil war in Guatemala was not fought over ethnic claims for self-determination, the peace process that brought the war to an end holds the prospect of incorporating historically neglected indigenous demands into a democratic national agenda. Given that the majority of Guatemalans are indigenous, further democratisation that is responsive to the ethnic diversity of the country would radically transform Guatemalan politics and society.

One agreement in particular, the Accord on the Identity and Rights of Indigenous Peoples (AIDPI), signed on 31 March 1995, is of primary importance. It explicitly recognises the multi-ethnic, culturally plural and multilingual nature of Guatemala and the specific, collective rights of some six million indigenous people.

The Indigenous Rights Accord provoked a backlash from those who claimed that indigenous people were being given ‘special rights’ that violated the principle of equality before the law and that greater regional autonomy would lead to the break-up of the Guatemalan state. However, the efforts of indigenous organisations have focused on integration and inclusion, not separatism. Indeed, many would argue that indigenous conceptions and practices of power, participation and justice are enriching notions of democracy throughout Latin America.

Awakening Identity Politics

In the 1980s, many indigenous Guatemalans articulated their resistance to overwhelming military repression by supporting armed groups or the emerging human rights movement. In the 1990s, while human rights issues remained central, the Mayan movement began to put forward national proposals for reform based specifically on ethnic interests.

In making this strategic shift, Mayan leaders and intellectuals had various motivations. One of these was a recognition of the power of pre-colonial history as a tool to mobilise and extend their own interests and those of their numerically large, but politically marginalised, constituency. Another was the belief that ideologies emphasising indigenous world-views as harmonious and conciliatory resonated deeply with the majority of Guatemalans
and stood in stark contrast to the discriminatory and authoritarian practices of the Guatemalan state. As such, it was argued, Mayan traditions could provide highly appropriate frameworks for reconstituting social structures destroyed by the war. Mayan organisations sought to advance political reconciliation and reconstruction through rebuilding indigenous identities, drawing on cultural elements such as language, and developing innovative interpretations of ancient myths and customs.

A number of factors facilitated the shift towards greater indigenous activism. The first of these was the ‘500 Years of Resistance’ campaign, a continental protest movement against official celebration of the ‘discovery’ of the Americas. As part of this campaign, in September 1990, Majawil Q’ij (‘New Dawn’) was set up by predominantly indigenous popular organisations to reflect on ethnicity and cultural rights. This group was also responsible for co-ordinating the second continental meeting, in Guatemala’s second city of Quetzaltenango, of ‘500 Years of Indigenous and Popular Resistance’. This summit, held in 1991, had a huge impact, strengthening Mayan consciousness and for, the first time, putting Guatemalans in touch with other indigenous organisations throughout North and South America.

A second factor underpinning the strengthening of an indigenous agenda was the formation of the Council of Mayan Organisations of Guatemala (COMG), an umbrella group of research centres, cultural and development organisations. Since its emergence in 1991, COMG has acted as a popular forum for exploring and promoting Mayan aspirations, publicly advancing demands for devolution and ethnic parity within Congress and other national institutions.

In October 1992, the Nobel Peace Prize was awarded to Mayan human rights activist Rigoberta Menchú Tum. Two years later, a number of Mayan notables actively promoted the setting up of Decenio Maya, another umbrella organisation taking its cue from the United Nations mandate to ensure greater participation of indigenous peoples in governance world-wide. The establishment of Decenio Maya and the attention arising from Menchú’s award, strengthened international awareness of indigenous claims and further consolidated indigenous identities within Guatemalan politics and society.

“In the mid-1970s I was not consciously aware of my own Mayan identity. The commemoration of the 500 years anniversary of the arrival of the Spaniards in America began to awaken that consciousness for all of us.”

Rosalina Tuynuc,
leader of National Co-ordination of Guatemalan Widows (CONAVIGUA),
FDNG representative and Vice-President of Congress. Crónica, 26 July 1996.
Ethnicity and Poverty in Guatemala

Approximately 60 per cent of Guatemala’s population is indigenous. The vast majority are Mayan, part of a wider community of some eight or nine million people who speak a Mayan language across four countries — Mexico, Honduras, Belize and Guatemala.

There are 21 Mayan linguistic communities in Guatemala, in addition to two other indigenous groups, the Xinca and the Garifuna. The rest of the population is mestizo or ladino (non-Indian), mixed race descendants of indigenous groups, Spanish settlers and other immigrants who colonised Guatemala after the sixteenth century. In many municipalities in the highland departments over 95% of the population is Mayan. While the touchstone of their identity remains the rural community, close to a million Maya now live in the capital, Guatemala City.

Most Guatemalan Maya continue to depend to some degree on subsistence agriculture for their survival. According to the latest government estimates, some 81% live in extreme poverty. While 50% of the general population are illiterate, this figure rises to 75-80% for indigenous people. It increases further to around 90% for Mayan women, over 60% of whom are monolingual. Life expectancy among the Maya is 17 years lower than for ladinos — 47 and 48 years for men and women, compared to 64 and 65, respectively.

More than any other factor, however, it was probably the independence and self-confidence of Mayan actors in the peace process which confirmed the transformation in indigenous identity politics. During discussion of the Indigenous Rights Accord, it became evident that non-indigenous intermediaries were no longer necessary; that Guatemala’s indigenous peoples could themselves ensure that the issues which mattered to them were put on the national agenda.

Negotiating as ‘Peoples’

Originally, Mayan activists lobbied for direct representation at the negotiating table on the issue of indigenous rights. This proposal was apparently accepted in principle by the Guatemalan National Revolutionary Unity (URNG), but rejected outright by the government. While many indigenous leaders objected to the characterisation of 60% of the population as a ‘sector’ of civil society, the sole opportunity for Mayan organisations to contribute to the peace negotiations came through their participation as such in the Civil Society Assembly (ASC). Although many remained dissatisfied with this perceived under-representation, an early success of indigenous participation in the Assembly was the recognition of indigenous peoples within that forum as ‘peoples’ rather than ‘groups’. Given the rights attached to ‘peoples’ by international law, it legitimised and framed a new way of conceiving and talking about national reform.

Articulating the Indigenous Rights Agenda

On 30 May 1994, the momentum for securing indigenous gains through the negotiations was further enhanced when the Co-ordination of Organisations of the Mayan People of Guatemala (COPMAGUA), representing over 200 individual organisations, presented a proposal on the identity and rights of indigenous peoples to the negotiating table and the ASC. This proposal outlined the historic discrimination and violence suffered by indigenous peoples. It mainly condemned the army, but it also blamed the URNG for miscalculating the disproportionate and genocidal response to its guerrilla activities. Both parties were further chastised for not securing Mayan participation in the initial stages of the negotiating process at Oslo in 1990.

The demands set out by COPMAGUA referred to the political, cultural, economic and social rights of Mayan people. Terms such as ‘autonomy’, ‘self-determination’ and ‘participation’ were loosely defined, constituting markers set down to frame a debate about rights, rather than provide precise formulations for institutional or political reform. In terms of political rights, COPMAGUA called for the constitutional recognition of Mayan people: a redefinition of the Guatemalan nation as culturally plural and multi-ethnic. It also called for the constitutional and legal recognition of Mayan organisational forms,
political practices and customary law. While these were not defined in the COPMAGUA document, they include indigenous mayoralities or councils of elders, selection of community representatives by consensus, rather than by the vote, and more restitutive forms of resolving conflicts. Lastly, COPMAGUA called for guarantees of greater participation in state institutions and policy formation, although, again, the mechanisms by which these might be achieved were not specified. It also demanded explicit recognition of historical and linguistic criteria in redefining politico-administrative boundaries, with the aim of affording greater representation and regional autonomy for Mayan peoples.

On cultural rights, the proposal focused on language and cultural ‘self-determination’, calling for the creation of representative institutions to defend and strengthen Mayan culture, the officialisation of all Mayan languages, and the strengthening of those facing extinction. It also called for greater cultural autonomy for indigenous peoples in educational affairs, including the development of new curricula and classroom materials to facilitate bilingual education, and greater community control over local schools. The document advocated positive discrimination to support disadvantaged Mayan students. It also asserted Mayan rights to greater access to the mass media, to their ceremonial and spiritual centres, and the use of indigenous dress without fear of discrimination.

Unsurprisingly, the section referring to economic rights focused on land. It called for the restitution of expropriated communal lands, the immediate tilling of lands historically occupied by Mayan people, and a comprehensive programme of land reform. Other demands included rights to the use of natural resources, a share in the benefits of tourism and the guarantee of a fair wage. In terms of social rights, the COPMAGUA document asserted Mayan entitlement to decide certain elements of social policy, such as birth control, and to receive adequate and culturally appropriate healthcare, basic services and housing. It also called for the criminalisation of ethnic discrimination.

A number of demands were directed specifically at the URNG and government negotiators. These included the rapid demilitarisation of Guatemalan society, including a thorough revision of the army’s national security policy, a reduction of the military budget, and transferral of funds to institutions protecting and strengthening Mayan culture and languages. COPMAGUA also insisted that Mayan demands should not be characterised as ‘pro-URNG’ and that its proposals form the basis of any subsequent agreement on the rights and identity of indigenous people.

Reaching agreement on this consensus proposal was an important political learning experience for the Mayan organisations in COPMAGUA. However, securing Civil Society Assembly approval of the proposal proved a difficult and at times acrimonious battle.

The Constructive Consensus

Discussions within the ASC added a number of provisions to the COPMAGUA proposal, including measures to ensure greater equality of indigenous women. Non-Mayan civil groups exhibited profound differences on other issues, partly fearing that maximalist demands for land and greater regional autonomy would jeopardise the peace process, and also that these would foment ethnic separatism and conflict. It was only after all mention of Mayan autonomy had been dropped that a revised proposal for more equitable coexistence between ethnic groups was finally approved. By this point, more extensive discussions on indigenous land rights had also been postponed, on the understanding that these would be addressed within the subsequent negotiating theme of ‘Socio-Economic Issues’. In July 1994, the Assembly reworking of the COPMAGUA proposal was finally agreed, signalling the first time that an explicit advancement of indigenous rights had received the backing of both indigenous and non-indigenous organisations.

In consonance with powerful elements within its own support base, and in recognition of the increasing profile of the indigenous constituency, the URNG strengthened certain of the ASC recommendations, such as those

"The greatest achievement [of the peace process] is that we were able to agree on concepts and definitions and make real proposals to the population for the construction of a plural-cultural and multilingual state. It gave us a strategic vision which we previously lacked...[and was] a mechanism which speeded up processes of unification, articulation and coordination among Mayan organisations."

Juan León, Defensoría Maya and PDNG vice-presidential candidate in 1995, Personal interview, Guatemala, 2 May 1997.
referring to discrimination, and promptly adopted the Assembly proposal as its own official negotiating position. On 31 March 1995, the accord was signed in Mexico City.

Although the need for demilitarisation of Mayan communities was significantly downplayed in the Indigenous Rights Accord, this was due to government insistence that such issues be addressed in subsequent negotiations on the Role of the Army in a Democratic Society. Otherwise, the final agreement was generally faithful to the ASC proposals. That indigenous groups' demands were significantly represented through the formal peace process is testimony to the constructive consensus achieved through COPMAGUA and the ASC. The relative gains made for indigenous rights also reflect the minor importance afforded by government negotiators to this theme, and the sympathies of the URNG with respect to indigenous rights, which resulted in their greater openness to civil groups' demands.

The Accord — Opportunities and Weaknesses

The provisions of the AIDPL summarised in the chronology and presented in full in the centre pages of this issue, describe the various political, cultural and socio-economic rights guaranteed to indigenous peoples as a consequence of the peace process. While Mayan activists point out they had no direct role in approving these provisions — the Assembly's recommendations were of a non-binding nature and the final agreement was signed by non-indigenous government and URNG representatives — they recognise the peace process as a crucial step forward for inter-ethnic relations in Guatemala and in the struggle for Mayan rights.

Putting the Agreement into Practice

While promoting a broad range of indigenous rights, the Indigenous Rights Accord also establishes five official commissions, made up of government appointees and representatives from COPMAGUA, which guarantee indigenous participation in the implementation phase of the peace process.

The official joint commissions include:

- The Commission for the Officialisation of Indigenous Languages
- The Commission on Sacred Places
- The Commission on Reform and Participation
- The Commission on Communal Lands
- The Commission on Educational Reform

The commissions on participation, land and educational reform are officially designated bipartite commissions, which means that government and indigenous representation must be equal. This does not apply to the commissions dealing with language and sacred places. All commissions will make recommendations to Congress on legislative reforms, functioning, in effect, as parliamentary sub-committees.

COPMAGUA has also set up eight permanent committees of its own. Through these, it aims to continue its co-ordination of the different Mayan organisations and to facilitate the participation of all indigenous communities, including the Xinca and Garifuna, in discussing, analysing and formulating proposals to the official commissions.

The eight permanent committees set up by COPMAGUA will consider:

- indigenous women's rights;
- spirituality;
- indigenous law;
- land;
- participation at all levels;
- officialisation of indigenous languages;
- educational reform, and;
- constitutional reform.

The official joint commissions on sacred sites, educational reform and the officialisation of indigenous languages began work in April 1997. In July, the Commission on Communal Lands was also inaugurated.
Unlike their government counterparts, COPMAGUA representatives on these commissions receive no payment for their time and face a conflict between the demands of participation and keeping in touch with their support bases. These factors, together with the general shortage of qualified personnel and resources, limit the capacity of the indigenous sector to present its demands effectively and to lobby for their adoption. As a result, any claims to ‘parity’ with government representatives are something of a legal fiction.

Holding out the prospect of becoming more permanent fora for national level consultation, the joint commissions could constitute an innovative development for the effective, ongoing articulation of indigenous demands. For the above reasons, however, and considering Congress has no mandated obligation to adopt anyone’s recommendations, it seems that COPMAGUA’s extensive investment in the implementing commissions could prove a high-risk strategy.

Women’s Rights

All too often in ethnically-based movements, women’s rights are subsumed to the ‘reconstruction of the traditional’, allowing men to decide what women’s roles in cultural reproduction should be. Typically, this leads to a strong emphasis on the role of women as bearers and educators of children and the accusation that ideas of autonomy and emancipation of women invariably stem from Western ‘cultural imperialism’.

In Guatemala, however, indigenous women demand their right to cultural difference and to equal treatment. As a consequence, COPMAGUA is already proposing that the state provide legal defence offices specifically for indigenous women. This will entail the establishment of institutions within local structures of governance that provide access to indigenous women to defend their rights. This, and the importance accorded gender equality in the Indigenous Rights Accord more generally, represent an extremely positive dimension of the Guatemalan peace process.

Redefining Local Power

Through the early years of official negotiations, indigenous people had already begun to reclaim local politics and by 1993, many ‘civic committees’ — slates of local candidates not aligned directly with a national political party — were contesting municipal elections. Two years later, in the crucial elections of 1995, out of 300 contested municipalities, over 100 indigenous mayors, both aligned and independent, were returned to office. Civic committees won many important municipalities, including Nebaj, Sololá and Quetzaltenango. These inroads in the struggle to democratise a highly centralised, militarised and authoritarian state can only be consolidated by further municipal reform, one element envisaged, although not precisely defined, in the Indigenous Rights Accord.

In addition, the incorporation of indigenous authorities, practices and norms mandated by the accord implies a radical change in the practice of Guatemalan politics. For example, the legitimacy of Mayan councils of elders and other authorities potentially empowered by the accord does not derive from a popular vote, but from their record of service to the community. Although no consensus yet exists among Mayan organisations on this matter, many feel that formal elections have been widely discredited by decades of fraud and electoral indifference, and that the time is ripe for more ‘traditional’ consensual decision-making. Such developments do not constitute a coherent alternative to existing party politics; however, they are beginning to present a different vision of participation and governance than that traditionally advanced by the political parties.

While there is room for guarded optimism at the local level, most commentators recognise that the general increase in indigenous participation promised in the Indigenous Rights Accord will require a far more substantive administrative overhaul. Currently, municipalities are only linked with regional and national authorities, if at all, through highly centralised and undemocratic political parties. At the same time, regional governors continue to be appointed directly by

“...We began to discover a mutual enrichment between the formal, official institutions of municipal government and indigenous organisations...In this respect we have an important contribution to make within the framework of the peace accords...Our common aspiration is that there be a different configuration of local power and of the state as a whole.”

the president. The accord did not specify mechanisms for effective co-ordination between community-level authorities, the municipalities, regional authorities and national political bodies. However, if the promises of greater indigenous participation are to be realised, the development of such mechanisms is imperative.

In addition, it must not be forgotten that the civil war placed all local decision-making under military control. As a result, ‘traditional’ bodies are sometimes absent and frequently fragmented. In fact, local communities are often unrepresented even at municipal level. Considering these constraints therefore, the process of participatory local reconstruction is likely to remain partial, protracted and difficult for at least the medium-term.

**Traditional Dispute Resolution and Customary Law**

The Indigenous Rights Accord also creates possibilities for countering the acute lack of public confidence in the rule of law, which is underpinned by the inefficiency, bias and corruption of the Guatemalan judicial system. By recognising customary indigenous law, it has already legitimised the community-based efforts of a number of indigenous organisations seeking to employ culturally acceptable, non-coercive means to resolve local conflicts. Based on ‘traditional’ principles of harmony, consensus and conciliation, these initiatives are generally based on the admission of guilt and restitutive measures such as reparation payments. Stressing non-violence and respect for women’s rights, they could begin to dismantle the entrenched culture of injustice and impunity in Guatemala.

However, the militarisation of local, regional and national government throughout the 1980s displaced the influence of traditional authorities and fomented the widespread use of violence to resolve conflicts. Unless recognition of customary law and promotion of traditional authorities is part of a comprehensive strategy for demilitarisation, involving extended processes of community-based education and reconciliation, there is the risk in some areas of the paramilitary structures imposed during the war permanently replacing traditional authorities. Over 300,000 civil patrollers and military commissioners were demobilised as part of the peace agreement, but many threaten to re-arm because of continued insecurity. As these groups have frequently been implicated in gross human rights abuses and often retain the protection of army hard-liners, rural areas remain highly volatile and the legacy of fear and division may yet take years to overcome.

In August 1997, Congress approved reforms to the Criminal Code, providing for the establishment of ‘mixed tribunals’ in certain localities, comprising local, non-judicial and official representatives. The debate about the respective roles of state and customary law remains unresolved, however, and this move constitutes just one step in what will inevitably be a lengthy and complex process.

**Land and Identity**

Land for the Maya is a vital ancestral link and a site of religious communion. It is, therefore, a linchpin of cultural identity. Crucially, access to land also remains, for the vast majority, the key to economic subsistence.

The Guatemalan oligarchy’s historical fear of agrarian reform, combined with the relative weakness of the URNG at the negotiating table, meant that the peace accords made little impact on a highly unequal land distribution (see Promised the Earth, p. 74). Prevailing definitions of private property were not challenged, nor was any notion of social property introduced. In addition, while the accords do acknowledge the historical despoilment of indigenous lands, they fail to detail specific mechanisms by which restitutive measures might be effected. In these circumstances, COPMAGUA representatives on the bipartite Commission on Communal Lands — which aims to develop proposals to implement the sections of the accord pertaining to indigenous land rights — are pessimistic about the prospects of increasing indigenous access to land, particularly in the most agriculturally fertile regions of the country.

All in all, indigenous civil groups face formidable challenges in their attempts to secure and extend the rights promised them. On one hand, mechanisms for the successful repre-
sentation of local rural communities must be constructed and reinforced, requiring sustained lobbying at regional and national levels. At the same time, reaching consensus positions within the highly plural indigenous constituency also involves extensive and time-consuming consultation at the grassroots level. Added to these problems, many fear the current government is more interested in advancing its own political agenda and neo-liberal economic programme than in effecting implementation of the peace accords. Official commitments to securing the consultation and participation of indigenous people, and to implementing both the spirit and the letter of the Indigenous Rights Accord, remain far from guaranteed.

Prospects for the Future

The Indigenous Rights Accord is an extremely wide-ranging agreement. Putting into practice the rights it promises will require many reforms and extensive funding. As the political will of the government is questionable and the capacities of civil society sorely stretched, the success of implementation will require determined pressure and appropriate support from the international community.

Although COPMAGUA’s more radical recommendations were left out of the Civil Assembly’s final proposal, the accord has opened possibilities for progressive indigenous autonomy based on decentralisation and greater participation within existing national structures. Even those Mayan activists who favour administrative boundaries on the basis of linguistic communities, or proportional representation based on regional ethnic demographics, accept that any measure of greater autonomy represents an important historic compromise.

Many aspects of the Indigenous Rights Accord threaten established economic and political interests. If the state and dominant classes fail to deliver on the promised socio-economic, political and cultural inclusion of indigenous people, the question of what kind of, and how much, autonomy should be granted indigenous groups will undoubtedly remain high on the political agenda of many civil groups. If indigenous people continue to be denied effective socio-economic and political inclusion, ethnically-based secessionist movements could be a future possibility.

Paternalistic or racist attitudes towards indigenous people, and the suspicions that exist on both sides of the cultural divide, will take a long time to overcome. At the same time, the persistent problems of militarisation, impunity and lack of access to land will continue to affect medium-term prospects for political stability. Ultimately, successful ethnic integration in Guatemala is likely to depend on solutions to the poverty and economic marginalisation of the indigenous majority. Even though the war has ended, these, its central causes, remain largely unresolved. If change is to be achieved in the future, the consensus found in the COPMAGUA coalition and which so fundamentally influenced the peace process, will need to be maintained. A new indigenous consciousness has emerged and a degree of political consensus has been achieved. The national process of realising indigenous rights, however, has only just begun.

Further Reading

Bastos, S. and Camus, M., 1995, *Abriendo Caminos: las organizaciones mayas desde el Nobel hasta el Acuerdo de derechos indígenas*, Latin American Faculty of Social Science (FLACSO), Guatemala City

Fischer, E. and McKenna Brown, R., (eds.), 1996, *Mayan Cultural Activism in Guatemala*, University of Texas Press, Austin


Funds for the fieldwork on which this article is based were provided by the Economic and Social Research Council, the British Council and the Central Research Fund of the University of London.

“Those who have power in their hands also have to make changes; if not then they will be responsible for any future armed uprising that might occur.”

Rosalina Tuyuc. Personal interview, Guatemala, 6 June 1997