

Guatemala Peace Talks:

Are Maya Rights Negotiable?

The tortuous dialogue between the Guatemalan Government's Commission on Peace (COPAZ) and the National Guatemalan Revolutionary Union (URNG) has been marked by exclusion of the Maya community, a standstill on the subject of identity and Indigenous rights, sinking credibility of the parties involved, and most recently, an ultimatum from the United Nations.

by Estuardo Zapeta

A day before the conclusion of 1994, the year in which the Guatemalan government had committed itself to signing a peace agreement, Guatemala's national daily paper *Siglo Veintiuno* carried the front page headline, "UN issues an ultimatum to the Government and URNG" (Friday, December 30, 1994). And an ultimatum was precisely what the stalled peace process seemed to need.

The problems that provoked the Guatemalan civil war—widespread illiteracy, extreme poverty, malnutrition, infant mortality, unequal access to fertile soil—remain unchanged after 34 years of conflict that has killed more people, destroyed more communities, displaced more Guatemalans, and produced more widows and orphans than the very problems that started it. Conservative estimates count over 100,000 dead, 35,000 disappeared, 22,000 widows, and 150,000 displaced people and refugees; the number of orphans has never been counted. Those most affected by the social ills of a country characterized by injustice and colonialism are the same ones who have suffered 95% of the victims caused by the civil war: the Maya.

That is why the open exclusion of any Mayan representatives in the discussion of "identity and rights of the Mayan community" has resulted in criticism of

Estuardo Zapeta is Maya-Caqchiquel and works with the Centro de Estudios de la Cultura Maya (CECMA) of Guatemala.

the peace process itself. The two groups participating in the dialogue, the government and the URNG, are typically ladino (of European or mixed descent), urban, and above all, exclusionary. Guatemala, on the other hand, is primarily rural, multicultural and the majority (65%) is Maya. Consequently, the "dialogue for peace" is seen as a "monologue" between two minorities who basically maintain the same colonial discourse.

The negotiation of identity and Indigenous rights, on which the parties remain stalled, is being called into question. Is Maya identity an element of the negotiations? Are Maya rights negotiable? Yes, apparently so, since this item appears on the agenda, it appears that the Government and the URNG believe that they are. Paradoxically, when the Maya community petitioned to include their representatives in the "dialogue," the Government and the URNG responded with a resounding NO. It appears that in Guatemala, after 500 years, history repeats itself; two minorities are making decisions for the Maya majority.

The paper on identity and Indigenous rights produced by the Assembly of Civic Groups (ASC) and presented as a solid proposal in opposition to the parties involved in the "dialogue" was ignored. The ASC is an association of eleven civic groups. One of these is the Maya coalition, Coordinating Organization of the Mayan Community (COPMAGUA), which is

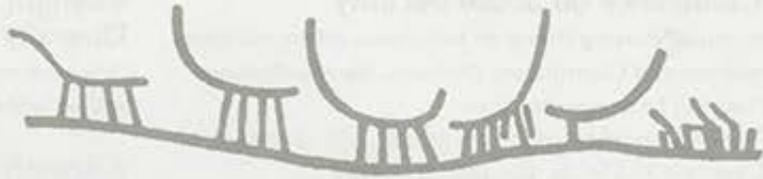
composed of four Maya organizations: The Academy of Maya Languages of Guatemala, The Council of Maya Organizations of Guatemala, The Permanent Maya Assembly, and The Office of Maya Unity and Consensus. The document was first discussed and approved by members of COPMAGUA, and then edited and approved by the eleven groups of the ASC. Finally, the document was presented to the representatives of the COPAZ and the URNG who ignored it.

Another item of negotiation in which the parties cannot agree is the ratification of the Covenant 169 of the International Labor Organization, "On Indigenous Communities and Tribal Groups in Independent Countries." The Guatemalan government argues that Covenant 169 is unconstitutional; the URNG, for its part, never came out in favor of ratifying the Covenant until late in 1994, when the Covenant was included as an item in the peace negotiations. Due to both parties' falling credibility, the URNG's support for Covenant 169 seemed a poorly timed political strategy.

All of this provoked a letter of ultimatum from the Secretary General of the United Nations, Boutros Boutros Ghali, addressed to the President of Guatemala, dated December 22, 1994, stating the following: "I am concerned at the lack of progress in the peace negotiations during the second part of 1994. As you know, the latest round of discussions that began on October 20 has not resulted in the hoped for agreement on 'Rights and Identity of the Indigenous Community.' This is another delay after the suspension of discussion for four months due to the position adopted by the URNG between July and October" (Free Press, December 30, 1994, p.2).

Because of the rejection of the ASC document, and due to the fact that neither party could produce an alternative proposal, the United Nations intervened by presenting a draft proposal on Indigenous Rights and naming a moder-

continued on pg. 37



Biodiversity, Community Integrity and the Second Colonialist Wave

(Continued from pg.12)

might be desirable, but the prime desire for Indigenous peoples was an IPR regime that supports their right to say "NO" to privatization and commercialization.

Indigenous delegates meeting in Rio de Janeiro released the *Kari-Oca Declaration and Indigenous Peoples' Earth Charter*. Clause 95 states that "Indigenous wisdom must be recognized and encouraged," but warns in Clause 99 that "Usurping of traditional medicines and knowledge from Indigenous peoples should be considered a crime against peoples." Clause 102 of the *Kari-Oca Declaration* is explicit about indigenous peoples' concern on IPR issues:

As creators & carriers of civilizations which have given & continue to share knowledge, experience & values with humanity, we require that our right to intellectual & cultural properties be guaranteed & that the mechanism for each implementation be in favor of our peoples & studied in depth & implemented. This respect must include the right over genetic resources, gene banks, biotechnology & knowledge of biodiversity programs.

Since the Earth Summit, dozens of conferences, seminars and workshops have been held by Indigenous peoples

to discuss the evolving IPR debate. During the 1993 UN Year for the World's Indigenous Peoples, intellectual and cultural property rights were on the agenda of nearly every major Indigenous encounter.

One of the most lacking areas of IPR research is that of non-western IPR regimes. Up to now, the debate has centered around UN and Western concepts of intellectual and genetic property. But what about the property regimes of Indigenous peoples themselves? A synthesis and analysis of non-Western systems would be very helpful in finding creative solutions to IPR protection.

Conclusion

It is fundamental that IPR/TRR should not be used simply to reduce traditional knowledge into Western legal and conceptual frameworks: Indigenous legal systems and concepts of property rights should guide the debate. The role of scientists, scholars and lawyers should be to provide information and ideas; it will be Indigenous and traditional peoples themselves who will, in many different ways, define Traditional Resource Rights through practice and experimentation.

Guatemala Peace Talks

(Continued from pg.26)

ator to work with both parties.

On January 4, 1995, *Siglo Veintiuno* reported that President Ramiro de Leon plans to sign a peace agreement on February 24. The more direct intervention of the UN Secretary General appears to be producing results, but it remains to be seen.

It is interesting to note that neither the Government nor the URNG has clearly presented its respective position to the Maya community or to the Guatemalan populace. Each of the two seem to have used the Maya community as a pretext to drag out the process toward a peace that didn't suit either one. In times of peace, you cannot justify the existence of a repressive military, nor of a radical guerrilla movement. That is why we must continue to reassert the final words of Secretary General Ghali: "The participants in the Guatemalan peace process must renew their commitment to a dynamic negotiation that provides clear direction towards a quick and just resolution to the conflict." Along with Mr. Ghali, the Maya, the principal—and numerous—victims of this conflict, request "a just resolution" for themselves, for their children and for Guatemala.