

After the signing of the peace accord in Guatemala on December 29, 1996, the implementation of these agreements between the Guatemalan government and the Guatemalan National Revolutionary Unity (URNG) has been one of the major concerns of the Mayan organizations. During the peace negotiations, Indigenous organizations in Guatemala recognized that ILO Convention 169 is an important, international legal tool that would contribute to the promotion of human rights and justice in Guatemala and urged for its ratification.

Unfortunately, the ratification of Convention 169 created a disagreement between those who are in favor or against it, delaying its ratification by Guatemala. Some who argued against the legal instrument proposed by the ILO claimed that Convention 169 contradicted the Guatemalan National Constitution. Others claimed that it was unnecessary because the Guatemalan Constitution was inclusive and that all Guatemalans were equal and enjoyed the same rights and obligations as members of the Guatemalan nation-state. Article 66 of the Guatemalan Constitution acknowledges that the Guatemalan state is made up of diverse ethnic groups and that "the state must recognize, respect and promote the ways of life, customs, traditions, forms of social organization, the use of Indigenous traditional dress, languages and dialects", which together form part of their distinct identity as Indigenous peoples.

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For those in favor, the above statement from the Constitution pertaining to the rights and freedom of Indigenous people within the nation, should be reinforced with the adoption and ratification of Convention 169. Convention 169 argues for the implementation, practice, and promotion of the rights of Indigenous people already stated in the Constitution. The protection of Indigenous rights is inherent since "the Indigenous and Tribal people must fully enjoy human rights and fundamental lib-

sent themselves, instead of the current policies which have promoted assimilation and full integration into the national life.

Convention 169 and the negotiations for peace

While Guatemala argued against the ratification of Convention 169, other countries such as Mexico, Colombia and Bolivia, among others; ratified the

Convention 169 and the Implementation of the Peace Accords in Guatemala

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erties without obstacles and discrimination." Due to the insistence of Indigenous organizations in Guatemalan and their international support, the Guatemalan government realized that it had a need and an obligation to ratify Convention 169. It was this pressure that persuaded the Guatemalan government to ratify the document on June 5, 1996 (effective June 5, 1997). It is our hope that, with its implementation, Indigenous people will finally be allowed to repre-

Convention and encouraged other countries to follow their example. For this reason, Guatemala was under strict scrutiny by other international organizations and was criticized for not adopting and ratifying the Convention. As the negotiations for a lasting peace between the Guatemalan army and the Guatemalan National Revolutionary Unity (URNG) continued, the different Mayan organizations insisted that Convention 169 must be ratified as part of the agreements. It

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was clear that this international, legal instrument would help the marginalized Indigenous population to assume leadership in the pursue of their rights and the revival of the Mayan, Garifuna and Xinca cultures.

In 1991, under the government of president Jorge Serrano Elias, the different Mayan organizations, worker's organizations, governmental institutions, the church, the army and CACIF participated in a national consultation to discuss the viability of the implementation and ratification of Convention 169 in Guatemala. In 1992, the Guatemalan Congress began a serious analysis and discussion of Convention 169 and its compatibility with the Constitution. The Latin American signatories of the Convention petitioned the Guatemalan Congress to ratify Convention 169 in 1993. The debate concerning the implementation of the Convention continued and became a highly contested issue for the different political parties. The ILO Convention 169 was finally ratified by Guatemala on June 5, 1996. It is considered an instrument that can help to ensure the implementation of the peace agreements (now pending after the signing of the peace accords.)

With the ratification of Convention 169, several issues became apparent. It is not sufficient simply to recognize that Indigenous people have been marginalized and limited in their access to resources, or that they have been denied the full expression of their individual and collective rights as traditional communities with a millennial history and culture. Nor is it enough to say that Guatemala is a multilingual and a pluricultural nation-state, if we are not making the constitutional laws functional. Guatemala must comply with its laws permitting Indigenous people to express themselves freely and to practice their ways of life without restrictions, limitations or obstacles. The Indigenous communities are hoping that Convention 169, as a legal instrument, will ensure their right to self-determination and autonomy. In Guatemala, there is an urgent need to enforce the legislation that considers the uniqueness and contribution of each Indigenous community, including their customary law.

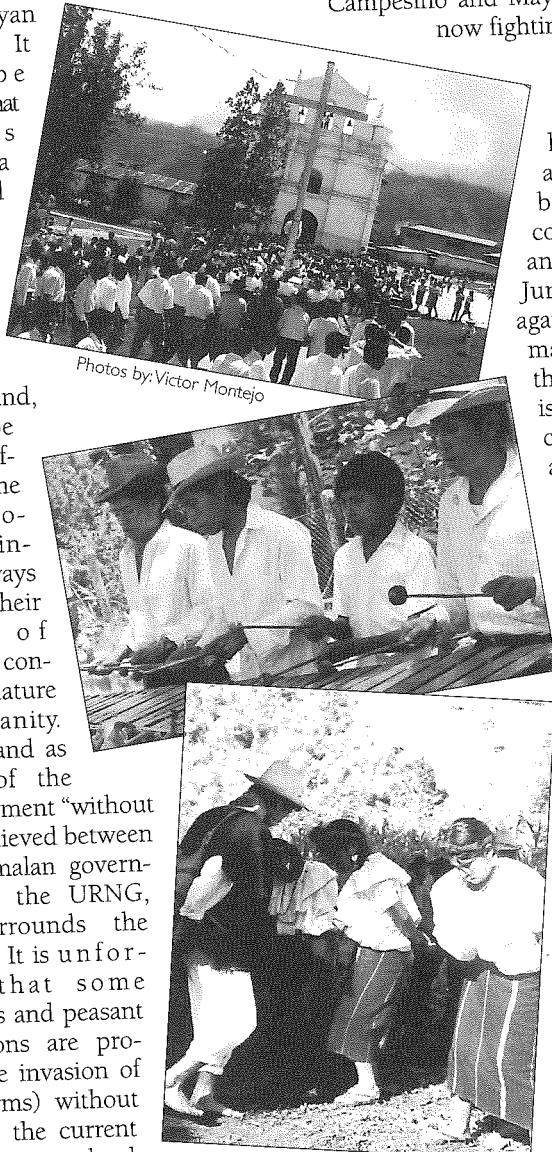
Can Convention 169 help resolve the land crisis?

The application of Convention 169 in Guatemala should now be instrumental in the search for solutions to the land problems affecting the Mayan communities. It should be understood that Indigenous people have a special "quasi-religious" relationship with the land. Without access to land, it will be extremely difficult for the Mayan people to maintain their ways of life and their legacy of respect and concern for nature and humanity. Currently, and as a result of the peace agreement "without justice" achieved between the Guatemalan government and the URNG, chaos surrounds the land issue.

It is unfortunate that some Indigenous and peasant organizations are promoting the invasion of fincas (farms) without regard for the current negotiations on land reform. The power of negotiations and dialogue must be respected in this case, in order to avoid the continuity of violence and tension in all levels of Guatemalan political life.

Convention 169 must be used as a tool to negotiate a peaceful solution to the land problem, and not be used as a weapon to allow confrontation and invasion by force. The Guatemalan population, Mayan and non-Mayan peasants

alike, should read and study the Convention carefully so that they may successfully use it as a tool in the quest for peace and justice for the dispossessed. The land problem continues to be a very delicate issue in Guatemala and currently this predicament is intensifying. Campesino and Mayan communities are now fighting against each other to protect and redefine the community and the municipality land boundaries. The armed confrontation between two Mayan communities in Solola and Totonicapan in June, who fought against each other with machetes to defend their land boundaries, is an example of the current situation. To avoid these conflicts, Congress must use Convention 169 to legislate attending the petitions of the Indigenous communities and must recognize their traditional, communal practices of land tenure. Land rights will undoubtedly be the source of conflicts in Guatemala and throughout Latin America in the coming century.



An instrument to support and implement the peace agreements

The ratification and full implementation of Convention 169 is fundamental in carrying out the peace agreements, particularly the accord on "Indigenous Rights and Identity." The importance of this document rests on the idea that Indigenous people should be consulted about, and participate in the development of, policies and programs that concern our lives and the organization of our communities.